

Please see [RAIN-2018-G02-R](#) for details regarding changes to this GPI effective November 12, 2020.

Grants Policy Issuance (GPI) 18-02 **Indirect Cost Policy for Recipients of EPA Assistance Agreements**

1.0 Purpose

This policy aligns EPA's requirements for indirect costs (IDCs) under EPA assistance agreements with [2 CFR Part 200](#) and provides additional EPA-specific information, including roles and responsibilities for ensuring consistency and effective management of assistance agreements.

2.0 Applicability and Effective Date

This policy applies to financial assistance agreements awarded on or after November 12, 2020, including new agreements and incremental or supplemental funding amendments, and no-cost amendments for rebudgeting. This policy does not apply to subrecipients or procurement contractors under EPA assistance agreements. It supersedes all prior versions of the Indirect Cost Policy.

3.0 Purpose of Revision

OMB revised 2 CFR Part 200 effective November 12, 2020, in part to streamline IDC regulations to provide further flexibility for the use of the 10% *de minimis* indirect cost rate authorized in 2 CFR 200.414(f). This policy has been updated to reflect these changes. Section 5.0 was updated to provide the new locations of definitions that are currently available in 2 CFR Part 200, and Subsection 6.3 was revised to provide details about the expanded availability and use of the 10% *de minimis* rate. In addition, minor modifications were made to Sections 6.2 and 6.4, to modify references to the 10% *de minimis* rate.

4.0 Background

IDC rates help ensure that recipients are compensated for costs incurred for allowable, allocable, and reasonable facilities and administrative costs that benefit EPA assistance agreements (e.g. functions necessary for the general operations of the organization, such as space costs, utilities, accounting services, human resource services, etc.), as well as other activities recipients carry out that may or may not be Federally-funded. IDC rates are negotiated for each recipient on behalf of all Federal agencies by a cognizant Federal agency, which is the agency that typically provides the most direct funding to the recipient.

EPA has historically implemented IDC policies based on recipient type and specific situations. [2 CFR Part 200](#) became effective on December 26, 2014, and provided a new set of regulations for IDCs, including appendices for specific recipient types. EPA policy was not consistent with the new regulations in some situations. This policy seeks to ensure that EPA and assistance agreement recipients are able to comply with the IDC regulations at [2 CFR Part 200](#), while detailing flexibility provided by the regulations.

5.0 Definitions

For the purposes of this IDC Policy, the following terms are defined at 2 CFR 200.1:

Cognizant Agency

Indian Tribe

Indirect Costs

Indirect Cost Rate Proposal

Institutions of Higher Education

Local Government

Modified Total Direct Costs

Non-Federal Entity

Nonprofit Organization

Period of Performance

State

Approved Rate: Includes current negotiated IDC rates, may include rate extensions, the 10% *de minimis* rate, and rate proposals prepared by exempt governmental agencies.

Authorized EPA employee: An EPA employee with re-delegated authority under Delegation 1-14-A to take all necessary actions to award, obligate and de-obligate funds for, and administer financial assistance, and to make any final determinations required by law or regulations, with eligible recipients.

Budgeted Indirect Costs: IDCs that are included in the budget of an assistance agreement.

Current Indirect Cost Rate: An IDC rate in effect (e.g. not expired) at the time of the EPA award.

Draw Down: A commonly used term for requests by recipients for EPA payments under [2 CFR 200.305](#) to cover incurred eligible and allowable costs.

Exempt Governmental Agency: In accordance with [2 CFR Part 200, Appendix VII\(D\)\(1\)\(b\)](#), an exempt governmental agency is a state or local governmental department or agency that receives up to and including \$35,000,000 in direct Federal funding per the department or agency's fiscal year. Exempt governmental agencies are not required to submit IDC proposals to their cognizant agency for approval. Per [2 CFR Part 200, Appendix VII\(D\)\(1\)\(c\)](#), Tribal governments are not considered exempt governmental agencies.

Expired Rate: An IDC rate that is no longer current, because the period of time in which it was effective has ended.

Final Rate: An IDC rate applicable to a specified past period, which is based on the actual costs of the period. A final rate is not subject to adjustment.

Fixed Rate with Carry-Forward: A permanent rate established for a future prospective period of time used for budgeting, obligations, and payment of funds by awarding agencies. Actual costs are determined by the organization's accounting system and the difference between fixed and actual costs is carried forward to a future period (usually the organization's fiscal year), in order to adjust the fixed rate for any over or under recovery.

Indirect Cost Rate: Rate by which IDCs are distributed to individual Federal awards.

Negotiated Rate: This is an approved IDC rate that an applicant or recipient has negotiated with its cognizant agency, including provisional, final, fixed rate with carry-forward, and predetermined rate types. Proposed rates are not considered negotiated rates.

Payment: Transfer of EPA funds to recipients under the standards and procedures of [2 CFR 200.305](#).

Predetermined Rate: A permanent IDC rate established for a specified current or future period and is not subject to adjustment. A predetermined rate may be used on awards where there is reasonable assurance that the rate is not likely to exceed a rate based on the organization's actual costs.

Proposed Rate: A proposal for an IDC rate that has not been approved by the cognizant agency.

Provisional Rate: A temporary IDC rate applicable to a specified period which is used for funding, interim reimbursement, and reporting IDCs on awards, pending the establishment of a final rate for the period.

Recipient: This term is defined at 2 CFR 200.1 and does not include subrecipients. For the purposes of this IDC Policy the term “Recipient” also includes individuals who receive awards under EPA statutes authorizing direct Federal financial assistance to individuals other than fellowship recipients under 40 CFR Part 46.

Regulatory Exception: A decision by an authorized Office of Grants and Debarment (OGD) official under [2 CFR 1500.4\(a\)](#) to grant a case-by-case waiver of [2 CFR Part 200](#) regulatory requirements.

Unrecovered Indirect Costs: The difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the non-Federal entity's approved negotiated IDC rate.

6.0 Policy

EPA assistance agreement recipients are not required to have an IDC rate, however prior to drawing down EPA funds for IDCs, and/or using unrecovered IDCs as cost-share, all EPA assistance agreement recipients must:

- Have an approved rate as described in section 6.1 of this policy, and
- Have an EPA-approved budget that includes IDCs.

Recipients must not claim IDCs above their approved rate. In addition, some EPA assistance agreement programs are [limited by statute or regulation](#). Recipients may only claim IDCs that are supported by an approved IDC rate that is concurrent with the period during which such costs were incurred, with the exception of Institutions of Higher Education (IHEs), as described in section 6.8.a below.

6.1 Indirect Cost Rate Types

For the purposes of the regulations and this policy, recipients can draw down IDCs if they have one of the following approved IDC rates in place at the time of award:

- Provisional;
- Final;
- Fixed rate with carry-forward;
- Predetermined;
- 10% *de minimis* of modified total direct costs as detailed in section 6.3;
- Extension of current or expired IDC rate by cognizant agency;
- Approved continued use of current or expired IDC rate by the Director of the National Policy, Training, and Compliance Division (NPTCD) of OGD as detailed in section 6.4.a; or (For exempt governmental agencies only) have an IDC rate proposal developed in accordance with [2 CFR 200 Appendix VII](#), with support maintained and available for audit.

Provisional rates used at the time of the award must be adjusted once a final rate is negotiated and approved by the cognizant agency for IDCs.

6.2 Proposed Rates

Proposed rates do not qualify as approved IDC rates, and recipients must not draw down IDCs without an approved IDC rate in place, as described in section 6.1. However, if an applicant has

submitted a proposed rate to its cognizant agency, EPA requires the inclusion of IDCs in the budget of the award, subject to adjustment once the proposed rate is approved.

With the exception of exempt governmental agencies, applicants must demonstrate to EPA that they have submitted proposed IDC rates to their cognizant agencies prior to award, or use the 10% *de minimis* rate (in accordance with 6.3 below) in order for IDCs to be included in the budget. If an applicant does not plan to use the 10% *de minimis* rate, and in the absence of proof of an IDC rate proposal submitted with the application, it is the responsibility of the Grants Management Office (GMO) to ensure that a proposal has been submitted, and that the IDCs budgeted are aligned with the proposed rate and base. A sample email to applicants is available in [Indirect Cost Guidance for Recipients of EPA Assistance Agreements](#), when requesting verification that an applicant meets the criteria above. GMOs may also contact the applicant's cognizant agency for assistance. The [EPA General Terms and Conditions \(T&Cs\)](#) provide information on budgeted IDCs that are based on a proposed rate.

As provided in [2 CFR Part 200, Appendix VII\(D\)\(1\)\(b\)](#), exempt governmental agencies are not required to submit their IDC rate proposals to their cognizant agencies for approval, unless the cognizant agencies request that they do so. EPA will accept proposed rates from these agencies as long as the agencies represent to EPA that they have prepared IDC rate proposals, and approval by their cognizant agencies is not required. A sample email to state and other governmental agencies is available in EPA's [Indirect Cost Guidance for Recipients of EPA Assistance Agreements](#), when requesting verification that an agency meets the criteria above.

6.3 Ten Percent *De Minimis* Rate

In accordance with [2 CFR 200.414\(f\)](#), recipients that do not have a current negotiated IDC rate under 10% are eligible for a *de minimis* rate of 10% of modified total direct costs for all Federal awards, with one exception:

1. State and local governmental departments or agency units that receive more than \$35 million in direct Federal funding are not eligible for the 10% *de minimis* rate.

The use of the 10% *de minimis* rate does not require approval of the cognizant agency for indirect costs; instead, applicants should include the 10% *de minimis* rate in grant budget documents, when applying for EPA assistance agreements.

After award, when recipients use the 10% *de minimis* rate for grants, they are not required to provide proof of costs that are covered under that rate. The recipient must use the 10% *de minimis* rate throughout the life of the assistance agreement, unless the recipient negotiates and receives approval for an IDC rate with its cognizant Federal agency during the life of the agreement. The recipient may request that EPA allow it to apply the negotiated rate any time after the effective date for the negotiated rate. EPA will allow the updated negotiated rate to apply for the period covered by the rate, unless the recipient is an IHE (see section 6.8.a below). A re-budgeting and/or change to the scope of work may be necessary if the IDC rate changes, since the amount of the overall award will generally remain the same.

For competitive awards, an increase in the IDC rate above 10% should not result in a material change to the scope of work. Per Section 13.d. of the [Policy for Competition of Assistance Agreements](#), "significant or material reductions in the scope of work of an assistance agreement, particularly a competed agreement, may raise competition issues and should be raised to the Grants Competition

Advocate's (GCA's) Office." See section 6.7 below for further information on IDCs and competitive awards.

6.4 Use of Expired Rates

6.4.a Fixed Rates with Carry-Forward

As provided in [2 CFR 200.414\(g\)](#), cognizant agencies can extend IDC rates, however fixed rates with carry-forward cannot be extended by the applicant's cognizant agency. EPA, as the awarding agency, can decide whether to allow recipients to continue to use expired fixed rates with carry-forward. The Director of NPTCD may allow recipients with fixed rates with carry-forward to continue to use those rates for up to four of the recipients' fiscal years after the expiration date, on a case-by-case basis, in accordance with [2 CFR 200.102\(b\)](#) and [2 CFR 1500.4\(a\)](#). Recipients that receive more than \$35,000,000 in Federal funding per fiscal year are ineligible for this exception.

In order to use an expired (or expiring) fixed rate with carry-forward, the recipient must request and receive a regulatory exception in accordance with section 9.0.b below, and:

1. The exception request will not be approved if the expired rate is more than three years old, in order to ensure the recipient will have time to either obtain a provisional or approved negotiated rate by the time the extension period ends, or obtain EPA approval for the use of the 10% *de minimis* rate as discussed in section 6.3.
2. The approval from NPTCD will be documented in the official grant file by the GMO.

If approved:

1. The recipient must continue to use the rate for all EPA agreements;
2. The recipient must advise the EPA of approval of a new IDC rate, by submitting the approved IDC rate agreement to the GMO; and
3. Use of expired rates cannot be further extended beyond four years after the expiration date.
 - a. If the recipient does not submit an IDC rate proposal to its cognizant agency prior to the end date of the period approved by NPTCD, EPA will not allow IDCs to be budgeted in awards, unless EPA approves use of the 10% *de minimis* rate as discussed in section 6.3. EPA requires the inclusion of IDCs in the budget of an award if a recipient has submitted a proposed rate to its cognizant agency. The recipient must demonstrate to the GMO that it has submitted a proposed rate to its cognizant agency prior to award or must have approval to use the 10% *de minimis* rate as described in section 6.3, in order to include IDCs in the budget.
 - b. A recipient must not draw down EPA funds for IDCs until it receives an approved rate from its cognizant agency, or the 10% *de minimis* rate is approved by the EPA as discussed in section 6.3.
4. With the exception of IHEs and exempt governmental agencies, recipients are not entitled to draw down funds for IDCs after the end date of the expired rate period approved by NPTCD, unless an approved rate is in place that covers the period from the end date of the extended expired rate to the start of the period covered by the approved IDC rate. Recipients are not entitled to IDCs for any period not covered by

an approved IDC rate as described in section 6.1. For more information on IHEs and exempt governmental agencies, see section 6.8 below.

6.4.b Provisional Rates

As provided in [2 CFR 200.414\(g\)](#), cognizant agencies can extend IDC rates, however provisional rates cannot be extended by the applicant's cognizant agency. An applicant's initial provisional rate may be used up to six months after expiration, but once the provisional and final IDC rate cycle is established, EPA will not allow provisional rates to be used past expiration.

As provided at [2 CFR 200.414\(c\)](#), once a recipient obtains a new IDC rate, EPA must allow the recipient to charge IDCs based on the new rate, for the period of time covered by the rate agreement.

6.5 Use of Unrecovered Indirect Costs for Cost-Sharing or Matching

Under [2 CFR 200.306\(c\)](#) recipients with approved negotiated IDC rates may use unrecovered IDCs, including IDCs attributable to cost-sharing or matching, to meet a required or voluntary cost-share with prior EPA approval. This includes IDC rates that have been extended by the cognizant agency, but it does not apply to other approved IDC rate types in this policy, such as the 10% *de minimis* rate, continued use of fixed rates with carry-forward, and exempt governmental agencies (unless rates were requested and approved by their cognizant agency).

All or part of IDCs may be budgeted to meet recipient cost-share requirements, or to provide a voluntary cost-share. In such instances, the recipient will calculate the value of IDCs incurred, but won't actually draw down the costs to be used as match. It is important that actual costs (not budgeted costs) are used to determine the value of the IDCs. See EPA's [Indirect Cost Guidance for Recipients of EPA Assistance Agreements](#) for examples of how to use unrecovered IDCs for cost-sharing or matching.

6.6 Use of Rate Lower Than Negotiated Rate in Non-Competitive Awards

During application negotiations, applicants may elect to use rates that are lower than their negotiated IDC rates without opting to use the unrecovered IDCs as cost-share. However, EPA must not require the use of a lower rate, unless authorized by Federal statute, regulation, or EPA policy established in compliance with [2 CFR 200.414\(c\)](#).

When a recipient elects to use a rate lower than its negotiated rate, it may request that EPA allow it to apply the negotiated rate any time after the effective date for the negotiated rate. If there are no [statutory restrictions](#), GMOs will coordinate with the Program Office to determine if use of the higher rate would have an adverse impact on the scope of work. GMOs will approve an increase to the IDC rate, provided there is no adverse impact on the recipient's ability to perform the agreed upon scope of work, and provided the recipient is not an IHE (as described in section 6.8.a below).

6.7 Indirect Costs and Competitive Assistance Agreements

6.7.a Voluntary Cost-Share or Use of Lower Rates

It is EPA policy not to request, recommend, or suggest that applicants for competitive funding opportunities offer to either propose to use unrecovered IDCs for voluntary cost-sharing or charge lower IDC rates than authorized by their cognizant agencies. Applicants may do so voluntarily for competitive purposes (e.g. to use more of the available funding for direct project costs).

1. Unrecovered IDCs as Cost-Shares

When applicants propose to use unrecovered IDCs as voluntary cost-shares under [2 CFR 200.306\(c\)](#), section 6.5 of this policy applies. However, once accepted by EPA, these voluntary cost-shares are binding on recipients under the terms of the award.

Note: Under [2 CFR 200.306\(a\)](#), recipients are not expected to provide voluntary committed cost-sharing for EPA-funded research grants, including offering not to recover the recipients' full IDC rate. Generally, such offers to use unrecovered IDC rates as voluntary cost-share are not to be evaluated for research proposals. GMOs and Program Offices should consult with the GCA's Office and the Office of General Counsel (OGC) on issues related to voluntary cost-share and research.

2. Use of Lower Rate for Life of the Grant

EPA may allow recipients to budget for a lower IDC rate than authorized by their cognizant agency subject to a term and condition that requires the recipient to use the lower rate for the life of the agreement.

Under both options above, it is required that the recipient charge EPA for IDCs throughout the life of the agreement on the basis of the terms agreed upon at award. Allowing increases in the amount of recovered IDC costs or the agreed upon IDC rates in situations in which EPA evaluated the recipient's approach to charging IDCs may implicate the fairness and integrity of the competitive process. Because the IDC approach agreed upon was a significant factor in EPA's decision to select the recipient (as reflected in scores on criteria relating to cost effectiveness or leveraging), allowing the recipient to charge IDCs differently than the approach proposed may be unfair to applicants that were not selected, or allow the recipient to gain an improper competitive advantage in the competition by proposing an IDC for evaluation that does not reflect the actual level of commitment ultimately provided to the project by the applicant.

6.7.b Rate Adjustments During the Period of Performance

When EPA makes a competitive award that includes the recipient's full IDC rate, under [2 CFR 200.414\(c\)](#) recipients may adjust their IDC rates if the rates change during the period of performance. The only exception to this rule is for agreements with IHEs which must use the IDC rate in effect at time of award as provided at [2 CFR Part 200, Appendix III\(C\)\(7\)](#), unless the rate was provisional. See section 6.8.a below for more information on IHEs and rate adjustments.

Material increases or decreases to amounts budgeted for direct cost categories will require non-IHE recipients to submit rebudgeting requests.

6.8 Information for Specific Recipient Types

6.8.a Institutions of Higher Education

IHEs are required by [2 CFR Part 200, Appendix III\(C\)\(7\)](#), to use the same negotiated IDC rates throughout the life of the grant unless the rates were provisional at the time of award. As provided in the regulation, the term "life" of the grant means each competitive segment of the project. A competitive segment is a period of years approved by EPA at time of award, and any no-cost extension of this period. Additional competitive segments may be added to agreements through supplemental monetary amendments and updated indirect cost rates may be used for such segments. EPA generally does not make awards with competitive segments.

Unless a regulatory exception has been approved by NPTCD, EPA will not agree to rebudgeting from direct costs to accommodate a rate increase, if the IHE's IDCs provided for a period were based on negotiated rates (final, fixed rate with carry-forward or predetermined), rather than provisional rates. The only IDC adjustments that EPA will make to assistance agreements with IHEs will be to apply a final rate in place of a provisional rate.

The Director of NPTCD may approve use of a higher IDC rate (not to exceed the current approved IDC rate) for IHEs on a case-by-case basis, in accordance with [2 CFR 200.102\(b\)](#) and [2 CFR 1500.4\(a\)](#). Program offices and GMOs will coordinate to determine if use of the higher rate would have an adverse impact on the scope of work. In order to use a different IDC rate than the one in place at the time of initial award, the recipient must request and receive a regulatory exception in accordance with section 9.0.b. below.

6.8.b State and Local Governments

A governmental department or agency unit that receives over \$35 million in direct Federal funding during its fiscal year must submit its IDC rate proposal to its cognizant agency for IDCs, in accordance with [2 CFR 200 Appendix VII\(D\)\(1\)\(b\)](#). Exempt governmental agencies (agencies that receive up to and including \$35 million) may maintain IDC proposals on file and charge IDCs based on the proposed rate, subject to adjustments based on audits, unless the cognizant agency requires submission and approval of the IDC proposal.

Governmental agencies that receive over \$35,000,000 in Federal funding during their fiscal year are ineligible for the 10% de minimis rate, as described in section 6.3.

6.9 IDC Compliance Concerns Between Implementation of 2 CFR Part 200 and This Policy

If recipients have not been fully compliant with the IDC requirements in [2 CFR Part 200](#) between December 26, 2014 and the effective date of this policy, recipients may request a regulatory exception on a case-by-case basis, to the extent authorized by [2 CFR 200.102\(b\)](#), [2 CFR 1500.4\(a\)](#) and applicable statutes and Executive Orders. In order to request a regulatory exception, the recipient must submit a written request to NPTCD in accordance with Section 9.0.b. below.

6.10 Repayment of Unallowable IDCs

In accordance with [2 CFR 200.411](#), recipients are responsible for repayment (or offset, if approved by an authorized EPA employee) of unallowable costs or overpayments based on adjustments to rate proposals or provisional rates. Information on refunding IDC costs is available here: <https://www.epa.gov/financial/grants>.

6.11 Closeout of Assistance Agreements without a Final IDC Rate

When an agency wishes to close out an award and the recipient does not yet have a final IDC rate, the agency may complete all closeout actions after receipt and acceptance of all required final reports (using provisional or fixed rates with carry-forward, if applicable), and accommodate subsequent adjustments under [2 CFR 200.344\(a\)\(2\)](#).

6.11.a Provisional Rate at Closeout

If a recipient only has a provisional rate at closeout, the grant can be closed. When a final rate is approved after closeout, the following may apply:

1. The Final Rate is Higher Than the Provisional Rate

If funds were left over from the award, the recipient may request that EPA provide the funds that are allowable under the higher rate, up to the available balance of the award. However, if funds are no longer available due to cancellation of appropriations or change in EPA priorities, then the GMO, in consultation with the Program Office, may deny the reconsideration request.

2. The Final Rate is Lower Than the Provisional Rate

The recipient is required to repay the difference between the amount drawn for IDCs, and the amount actually allowed under the final rate, unless the difference is under \$25, or a different amount established by the EPA's Office of Chief Financial Officer (OCFO).

6.11.b No Final Rate Due to Compliance Concerns

If a recipient does not have a final rate at closeout due to compliance concerns (e.g. the last rate expired and the recipient did not receive an extension of the rate through the cognizant agency, or the recipient did not receive a regulatory exception to continue using the rate, or the recipient did not receive approval to use the 10% *de minimis* rate), then EPA will disallow all indirect charges that fall outside of the approved rate time frame. Recipients may only receive indirect costs if an IDC rate is in place as described in section 6.1.

After the agreement has been closed out, if the recipient obtains an IDC rate covering all or part of the period of performance, the recipient may request that EPA reconsider the cost disallowance. However, if funds are no longer available due to cancellation of appropriations or change in EPA priorities, EPA may deny the reconsideration request.

7.0 Review and Evaluation

EPA will review this policy periodically to evaluate effectiveness.

8.0 Guidance

OGD will issue further guidance as necessary to address issues raised by this policy.

9.0 Waivers and Regulatory Exceptions

The Director of EPA's Office of Grants and Debarment has designated the Director of NPTCD as the decision-maker for waivers and regulatory exceptions for this policy.

9.0.a. Waivers to Policy Requirements

The Director of NPTCD may grant waivers to the requirements in this policy on a case-by-case basis, or class basis, unless such a waiver requires a regulatory exception to [2 CFR Part 200](#). All waivers must be based on circumstances of compelling urgency, unique programmatic considerations, extraordinary compliance burdens on recipients or where a waiver would otherwise be in the public interest.

9.0.b. Regulatory Exceptions

The Director of NPTCD may grant regulatory exceptions, as provided in [2 CFR 200.102\(b\)](#) and [2 CFR 1500.4\(a\)](#), which limits EPA's authority to case-by case exceptions to the requirements in 2 CFR Part 200.