Department of Energy

Indirect Percentage (%) Cap Against Total Award Fact Sheet

Contents

Preamble..... 1
DOE Policy..... 1
Frequently Asked Questions..... 2
Calculation Narrative and Examples..... 5
Definitions and Acronyms..... 6

Preamble

It is a common misconception that an indirect rate is equal to the percentage of the total award costs (e.g. a 50% rate does not mean 50% of the award). Therefore, it is important to understand a percentage cap on indirect cost recovery is not an indirect rate cap.

DOE Policy

The Department established a maximum allowable dollar amount (stated in terms of a percentage of the total project award amount) that it will reimburse for allowable, allocable, and reasonable indirect costs under the DOE Awards. The percentage that will be reimbursable is inclusive of total indirect costs and fringe benefit costs.

Recipients should continue to utilize their negotiated and approved indirect cost rate(s) in applications for financial assistance awards, but the Department established a maximum dollar amount that it will reimburse under the awards. The maximum limit of funds to be paid or reimbursed to a new award as indirect costs will be calculated as a percentage of the total project award amount and will be included in the award terms as a cap. For for-profit organizations, this maximum percentage is fifteen percent (15%). For nonprofit organizations, this maximum percentage is 15 percent (15%). For state and local governments, this maximum percentage is 10 percent (10%). Tribal entities and Institutions of Higher Education (IHEs)/Universities are currently not impacted.

All New Awards mandate that the Department limit the payment or reimbursement of all allowable, allocable, and reasonable indirect costs to the maximum percentages listed above. This policy will better balance the Department's twin aims of funding meaningful financial assistance programs to stimulate a public purpose, such as improved infrastructure or technology deployment, and upholding its fiduciary Federal Stewardship obligations to the American people.

In circumstances where the Secretary has determined it is necessary and appropriate, the dollar threshold for payment of indirect costs may be modified for Award(s) to for-profit organizations that are subject to this policy.

Frequently Asked Questions

Q: What is a percentage (%) cap against the Total Award?

A: The percentage (%) cap is a maximum percentage of indirect costs which can be recovered on each DOE award, which shall be expressed as a dollar amount in the Award Terms. The percentage is calculated against the Total Award Amount (Federal amount plus required cost share). See narrative and examples calculations below.

Q: Why was this percentage cap created?

A: Limiting the percentage of total indirect cost recovery ensures taxpayer funds are fully utilized to meet Department objectives while concurrently providing recipients with a fair and reasonable indirect cost recovery amount to only pay for essential items not directly supporting the federal award.

Q: What is the difference between a cap on an indirect rate and a cap on indirect cost percentage of the total award?

A: A cap on an indirect rate means the organization cannot bill more than a specified indirect billing *rate* against the allocable cost base. A cap on the indirect cost percentage (%) of the total award means the Recipient shall utilize an approved rate, but the resulting reimbursable *costs* for fringe and indirect costs cannot exceed the percentage cap (e.g. 10% or 15%) of the total award value. See calculation examples.

Q: Which organizations are impacted by indirect cost percentage caps?

A: All For-Profit, Nonprofit, and State and Local Government Recipients and Subrecipients are to follow the applicable percentage caps.

Q: Are there any organizations excluded from the indirect cost percentage caps?

A: Currently, Institutes of Higher Education (IHEs) and Tribal organizations are excluded from any listed percentage caps.

Q: What are the percentage caps?

A: For-profit and Nonprofit organizations are subject to a15% cap based on the total award and State and Local Governments are subject to a10% cap based on the total award.

Q: Why are State and Local Governments 10% and not 15%?

A: State and Local Governments generally incur lower indirect cost allocations due to shared infrastructure and centralized administrative systems. A trend analysis conducted using nearly a decade of data reflected State and Local entities incurred an average of 5% to 7% less in indirect cost recovery than other entity-types.

Q: Does this percentage cap impact my current award?

A: No. The percentage cap is prospective, not retroactive. If a new award is made on or after May 9, 2025, the percentage cap will apply. If a current award is fully conditioned (funds were obligated, however the award was not negotiated or executed to start), the percentage cap will apply if the award conditions are lifted on or after May 9, 2025.

Q: Must the full percentage cap be utilized?

A: No. If an organization is utilizing indirect rates (from a rate agreement, rate proposal, or de minimis election) and the resulting fringe and indirect costs are less than the full percentage cap, indirect costs should not be increased to meet the full cap.

Q: Are FFRDCs included in the Total Award Amount?

A: Yes. FFRDCs are included in the Total Award Amount.

Q: Are fringe costs part of the percentage cap?

A: Yes. The percentage cap includes fringe and indirect costs.

Q: Can our organization utilize indirect cost amounts over the cap as cost share?

A: No. The percentage cap is against the Total Award, which is Federal and Cost Share, and cannot be exceeded.

Q: How do unrecovered indirect costs as cost share get reimbursed with this cap?

A: Unrecovered costs are described under 2 CFR § 200.306(c) as the difference between the amount charged to the Federal award and the amount which could have been charged. If the percentage of indirect costs, inclusive of fringe, are less than the cap, there is no impact to unrecovered indirect costs. However, any indirect costs above the cap are not amounts which 'could have been charged' to the DOE award; therefore, they are not unrecovered and not allowed as cost share.

Q: If the organization does not meet the cap amount, can the remainder be used as cost share?

A: No. Cost Share are allowable costs which are part of the total award and the cap amount is a limitation or maximum amount of costs which cannot be exceeded, not a fixed amount for recovery. Any difference cannot be utilized as cost share.

Q: Can our organization still use our approved rate agreement?

A: Yes. The organization can use their approved rate agreement; once the cap amount is met, no further fringe or indirect costs will be reimbursed. Or, rates can be reduced while applying the recipient's same rate methodology over the life of the award; again, any amounts above than the allowed cap will not be reimbursed.

Q: Does our organization still need to provide a rate proposal if it desires to charge indirect costs but does not have an agreement?

A: Yes. The organization will need to provide a rate proposal in support of segregated fringe and indirect billing rates for provisional billing purposes and can allocate approved provisional rates up to the percentage cap amount on the award.

Q: Does our organization still need to submit our annual Incurred Cost Proposal?

A: Yes. Indirect billing rates are still required to be trued-up (reconciled) annually to ensure there were no over-recoveries in indirect costs and the Incurred Cost Proposal still needs to be provided to the Cognizant Agency per the appendices of 2 CFR Part 200 and FAR Part 42.7.

Q: Can our organization still elect the de minimis billing rate per 2 CFR Part 200.414(f)?

A: Yes. The organization can elect the de minimis if it does not have a current rate agreement; however, the cap on fringe and indirect cost still applies.

Q: If the percentage cap amount is not met, is the entity entitled to receive the difference up to the cap?

A: No. The cap is a limitation or maximum amount set for cost recovery, not a fixed amount to be recovered. The entity is not entitled to the difference in the indirect costs incurred and the cap amount.

Q: How is our organization supposed to adjust the budget to meet the cap?

A: The organization will need to determine how to adjust their budget to ensure the cap is not exceeded. DOE cannot provide input or guide recipients how the costs proposed from a Recipient are to be implemented into the budget.

Q: If the recipient reduces their indirect costs recovery amounts to meet the cap, can award costs be reallocated to direct cost elements?

A: If there are legitimate direct costs required to meet the project objectives of the DOE award, justification can be provided for DOE approval for any additional direct costs.

Q: If only the first budget period is being negotiated, is the percentage cap per budget period or always based on the Total Award amounts?

A: The percentage cap is calculated against the total award amount (Federal and Cost Share). If only the first budget period is negotiated, then the total award amount is tied to the first budget period. In the second budget period, the total award amount is tied to budget periods one and two, and so forth.

Q: What happens if the Total Award costs are adjusted?

A: The percentage cap is calculated against the total award (Federal and Cost Share). If the total award cost changes, then the cap amount also adjusts up or down to coincide with the total award amount.

Q: Can the organization bill the costs associated with the cap in advance of incurring them?

A: No. Indirect costs are allocated only if direct costs are incurred. It is unallowable to invoice for any costs which have not been incurred.

Q: If a recipient's labor billing rates include overhead burdens, does the cap apply?

A: Yes. If the recipient labor rates are burdened, the DOE will require the burdened labor rates be broken out into the direct hourly rate and reflect the percentage burden to ensure the percentage cap is not exceeded.

Q: Are subrecipients cap based on their award amount and is the subrecipient's cap deducted from the Prime's cap amount?

A: Yes. The Subrecipient's cap is based on their total award, not the Prime's total award amount. And, no, the Sub's cap amount is not deducted from the Prime's cap amount.

Q: Can the overage of indirect costs be obligated to the award in anticipation of an enjoinment to the Policy Flashes?

A: No. Obligating unallowable costs for programmatic purpose are considered a contingency and unallowable.

Q: Are there circumstances in which the entity can request the percentage cap limitation be increased?

A: There may be unusual circumstances which the DOE will review on a case-by-case basis depending on the scope of effort. Any deviations from the percentage cap limitation will require Energy Secretary approval through a request to the Grants Officer and the Head of Contracting Activity (HCA).

Calculation Narrative and Examples

The attached Narrative and Excel® Worksheets contain instructions and examples of how the percentage of indirect costs are calculated against the total award costs.



Indirect Cap Narrative Guidance.pd


Sample Calculations for Percentage CAPs.x


Steps for CAP Determination.xlsx

Definitions and Acronyms

Reference	Acronym	Description
Burdened Rate	None	A burdened rate refers to the total cost of employing a worker per hour, including not just their direct wage but also all associated labor costs like taxes, benefits, insurance, training, and other indirect expenses.
Code of Federal Regulations	CFR	The CFR is the codification of the general regulations publicized by the executive departments and agencies of the Federal Government.
Cognizant Federal Agency	CFA	Federal Agency which provides the greatest amount of Federal funds to an organization.
Direct Cost	None	Costs that can be identified specifically to a particular final cost objective, such as the Federal award.
Federal Acquisition Regulation	FAR	For Financial Assistance, for-profit organizations are governed by the FAR Cost Principles under FAR Part 31.2 and applicable audit rules under Part 42.7.
Head of Contracting Activity	HCA	Senior official responsible for managing contracting functions within the Agency.
Indirect Costs	IDCs	Costs for a common or joint purpose benefitting more than one cost objective, such as the Federal award or other funded activity.
Indirect Rate Proposal	IRP	Supporting documentation, which is reviewed by the Cognizant Federal Agency, to approve and establish an organization's indirect rates for estimation and billing purposes on each Federal award.
Negotiated Indirect Cost Rate Agreement (Rate Agreement)	NICRA	Official, CFA approved agreement for indirect cost rates which apply to all Federal awards.
Recipient	None	The organization named as the awardee that signs the Financial Assistance agreement and receives Federal funds under the financial assistance award.
Subrecipient	None	An entity that receives a subaward from a pass-through entity (Recipient or Subrecipient) to contribute to the goals and objectives of the project.