

U.S. Department of Energy

Washington, D.C.

ORDER

DOE4210.7B

12-24-91

SUBJECT: INDIRECT COST RATE RESPONSIBILITIES

1. PURPOSE. To set forth policies, procedures, and responsibilities for establishing a single Department of Energy (DOE) focal point for indirect cost rate matters for each commercial organization, educational institution, State, local, and Federally recognized Indian tribal governments, and nonprofit organization awarded a DOE contract and/or a financial assistance instrument.
2. CANCELLATIONS.
 - a. DOE 4210.7A, INDIRECT COST RATE RESPONSIBILITIES FOR COMMERCIAL ORGANIZATIONS, of 5-16-85.
 - b. DOE 4210.8, APPROVAL AND NEGOTIATION OF INDIRECT COST PROPOSALS FOR STATE AND LOCAL GOVERNMENTS, of 12-16-81.
 - c. DOE 4220.1, COGNIZANT OFFICE CONCEPT FOR CONTRACTING WITH EDUCATIONAL INSTITUTIONS, of 11-19-79.
3. REFERENCES.
 - a. Title 48 Code of Federal Regulations (CFR), Chapter 1, "Federal Acquisition Regulation (FAR), " Subpart 42.7, "Indirect Cost Rates, " as supplemented by Department of Energy Acquisition Regulation (DEAR), Subpart 942.7, "Indirect Cost Rates," which sets forth policies and procedures governing the establishment of indirect cost rates for contracts.
 - b. Title 10 CFR 600, DOE Financial Assistance Rules, which, in part, set forth policies and procedures for establishing allowable indirect costs under grants and cooperative agreements.
 - c. Title 48 CFR Chapter 9, DEAR, Subpart 901.6, "Contracting Authority and Responsibilities," which sets forth the duties and responsibilities of the head of the contracting activity.
 - d. DOE 4600.1A, FINANCIAL ASSISTANCE PROCEDURES MANUAL, of 4-1-87, which sets forth, in part, procedures for establishing indirect cost rates for financial assistance awards.
 - e. Office of Management and Budget (OMB) Circular A-21, Revised, "Cost Principles for Educational Institutions," of 2-26-79, which sets forth the principles for determining allowable costs under grants, contracts and other agreements with educational institutions.

DISTRIBUTION:

All Departmental Elements

INITIATED BY:

Office of Procurement, Assistance
and Program Management

- f. OMB Circular A-88, Revised, "Indirect Cost Rates, Audit, and Audit Follow-up at Educational Institutions," of 11-27-79, which provides policies for establishing indirect cost rates, conducting audits, and resolving questioned costs with educational institutions.
- g. OMB Circular A-87, Revised, "Cost Principles for State and Local Governments," of 1-15-81, which sets forth principles for determining the allowable costs incurred for State, local and Federally recognized Indian tribal governments under grants, contracts, and other agreements.
- h. OMB Circular A-122, Revised, "Cost Principles for Nonprofit Organizations," of 6-27-80, which sets forth principles for determining allowable costs incurred under grants, contracts, and other agreements with nonprofit organizations.
- i. Title 48 CFR Chapter 1, Part 31, "Contract Cost Principles and Procedures," which sets forth principles for determining allowable costs incurred under contracts with commercial organizations.
- j. Title 45 CFR 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals," which sets forth principles for determining allowable costs incurred under grants and contracts with hospitals.

4. DEFINITIONS

- a. Cognizant Contracting Officer (CCO) is the person delegated the DOE decisionmaking authority on indirect cost rate matters for a specific organization receiving DOE contract and financial assistance awards.
- b. Cognizant DOE Office (CDO) is the contracting activity assigned lead office responsibility for all DOE indirect cost matters relating to a particular organization receiving DOE contract and financial assistance awards.
- c. Cognizant Federal Agency (CFA) is normally the one having the predominate financial interest in the organization. The CFA is responsible for performing a designated function on behalf of all Federal agencies. For the purposes of this Order, the function is the establishment of indirect cost rates and indirect cost determinations.
 - (1) DOD 4105.59-H, "Directory of Contract Administration Services Components," lists the cognizant Federal agency of major defense contractors.
 - (2) Cognizant Federal Agencies for educational institutions are listed in OMB Circular A-88.
 - (3) A list of cognizant agencies for State/local governmental units is maintained by OMB and is periodically published in the Federal Register. All State/local cognizant agency responsibilities are established for a minimum period of 3 years.

- (4) There is no published listing of cognizant Federal agencies for nonprofit organizations.
- d. Commercial Organization is a contractor or financial assistance recipient that is subject to the Federal cost principles applicable to commercial organizations, i.e., FAR, Subpart 31.2, as amended by DEAR Subpart 931.2., "Contracts with Commercial Organizations." The term "commercial organization" may refer to the entire company or a separate segment of a company (e.g., division) receiving the award(s) and is synonymous with the terms "commercial firm" or "for-profit organization."
- e. General and Administrative Expense is an indirect cost, commonly called "G&A", which is incurred by, or allocated to, a business unit as a whole. The term is normally found in a commercial organization indirect cost structure. These costs are general operating expenses of a business unit, e.g. executive salaries and benefits, personnel administration costs, and the costs of staff services such as legal, accounting, public relations, and financial functions. G&A expenses are incurred at the business unit level, but may also include an allocation of indirect costs commonly called "Home Office Expense (HOE)." In very large organizations which have several business segments, the corporate G&A is known as HOE, a portion of which is allocated to each benefiting business segment within the organization. Cost Accounting Standard 410, "Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives," provides criteria for the allocation of G&A expenses.
- f. Indirect Costs are the expenses that cannot be conveniently assigned to the direct costs incurred by an organization, such as general operating expenses. Indirect costs are generally divided into two main categories, overhead and general and administrative expense. Also, in some instances, fringe benefit costs may be established as a separate category. The Government recognizes indirect expenses by reimbursing the organization a reasonable, allowable, and allocable portion of the costs.
- g. Indirect Cost Rate is the percentage or dollar factor that expresses the rate of indirect expenses incurred in a given period to direct labor, manufacturing cost, or other appropriate base for the same period. Such rates may be in the form of:
- (1) Billing Rates. These indirect cost rates are established temporarily for interim reimbursements of incurred indirect costs and adjusted, as necessary, pending establishment of final indirect cost rates. Billing rates are "forecasted" or "estimated" rates and are based on previous audits or experience, information resulting from recent review, or similar reliable data or experience of other contracting activities. OMB Circulars A-21, A-87, and A-122 refer to this type of indirect cost rate as a "provisional" rate.

- (2) Final Indirect Cost Rates. These rates are established and agreed upon by the Government and the awardee for the purposes of determining allowable indirect costs under existing cost-type awards. Final indirect cost rates reflect actual cost experience for the covered period.
 - (3) Predetermined Final Indirect Cost Rates. Predetermined fixed rates may be established under cost reimbursement research and development awards placed with educational institutions. These rates are applicable to a specified current or future period and are an estimate of the costs to be incurred during the period. Such rates are established when there is a reasonable assurance, normally based on experience and a reliable projection of an institutions' probable level of activity, that the rate agreed to will approximate the institutions' actual rates. (Refer to FAR 42.705-3 and DEAR 916.307.)
 - (4) Fixed Rate With Carry Forward. This type of rate has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period. (Refer to OMB Circulars A-21, A-87, and A-122.)
 - (5) Forward Pricing Rates. These cost rates are used to price indirect expenses during specified fiscal years and are used in developing contract negotiation objectives and negotiating contract prices. The rates may, when deemed appropriate, be incorporated into a written forward pricing rate agreement and may include indirect cost rates, labor hour rates, material and labor variances, material handling rates, efficiency factors, etc. (Refer to FAR 15.809.) These rates may also be used as interim billing rates under cost-reimbursement type contracts, unless the contracting officer determines that changed conditions have invalidated part or all of the agreement.
- h. Noncommercial Organizations are educational institutions, State, local and Federally recognized Indian tribal governments, and nonprofit organizations subject to OMB Circulars A-21, A-87, and A-122, respectively; and hospitals subject to Title 45 CFR 74.
- i. Predominant Financial Interest is a term used to determine which Federal agency has the largest Federal involvement with an organization and, therefore, is normally responsible for establishing indirect cost rates applicable to all Federal awards. Predominant financial interest can be determined on the basis of unliquidated contract dollar amount (FAR 42.7), or the largest dollar value of all awards (OMB Circulars), or any other method that identifies the agency with the predominant Federal interest.

5. POLICY.

- a. The DOE policy regarding administration of overhead costs, general and administrative expenses, and rates included in DOE awarded contracts and financial assistance instruments is as follows:
 - (1) Where the DOE is the Cognizant Federal Agency. The DOE office designated as the CDO shall be responsible for establishing the indirect cost rates required for the administration of all Federal contract and assistance awards, including DOE awards, made to that organization.
 - (2) Where the DOE is Not the Cognizant Federal Agency. The DOE shall accept and use the indirect cost rates established for the respective organization by the Cognizant Federal Agency or another Federal agency, provided any required adjustments are made to reflect DOE-specific cost principles.
 - (3) When determining allowable costs under DOE contracts and financial assistance instruments awarded to that organization, all DOE contracting officers shall use the same indirect rate(s) established for that organization.
- b. It is also the DOE policy that:
 - (1) A CDO shall be designated for each organization that receives DOE awards requiring the establishment of indirect cost rates or indirect cost determinations, regardless of whether the DOE is the CFA.
 - (2) The contracting activity designated as the CDO for a particular organization serves as the lead office responsible for all DOE indirect cost matters relating to the organization.
 - (3) The designation remains until all affected DOE awards placed with the organization are retired; or another DOE office is assigned the CDO function.

6. PROCEDURES.

- a. The Office of Policy (PR-12) shall designate a CDO for those organizations awarded a contract and/or financial assistance instrument. Such designations shall be based on predominant DOE financial interest (the largest dollar balance of active and inactive DOE awards requiring allowable indirect cost determinations) in the organization.
- b. The CDO cognizant contracting officer shall determine whether the DOE has CFA responsibilities. This can most easily be accomplished by asking the awardee to identify which Federal agency they have the most business with (the predominant financial interest), and contacting that agency for the purpose of establishing which agency shall serve as CFA.

- c. When CFA responsibilities are transferred from DOE to another Federal agency (i.e. the predominant financial interest has shifted to another Federal agency, or another agency wishes to assume the CFA responsibilities even though DOE has the predominant financial interest), the change must be agreed to by both the DOE and the other Federal agency and coordinated through the Office of Policy (PR-12). If applicable, OMB will be advised by the Office of Policy (PR-12) so that publications which list the CFAs can be changed.
- d. Heads of contracting activities, or their designees, may request the Office of Policy (PR-12) to change the CDO assignment for a particular organization. Redesignation requests shall be submitted for approval in accordance with the format set forth in Attachment 1 and must be jointly agreed to by the two affected contracting activities. Such requests will be reviewed on a case-by-case basis and may be approved when justified by the circumstances involved, e.g. when there is a significant shift in the predominant DOE financial interest, no inefficiencies will occur if a different cognizant DOE office is established, or a different arrangement is otherwise determined to be in DOE's best interest.
- e. Upon approval of a redesignation, the relinquishing office shall forward appropriate summary information concerning negotiated billing rates, final rates, and forward pricing rates to the new designee. Detailed file documentation on negotiations will remain at the activity which negotiated the rates.
- f. The CDO shall normally also serve as the DOE focal point for that organization's corporate general and administrative expense distributions, if applicable.
- g. Cognizant DOE office assignments will be designated and maintained in the Procurement and Assistance Data System by the Office of Policy (PR-12).
 - (1) New awards will be reviewed quarterly and assigned to the CDO where a CDO already exists for the organization. (A new award which results in a different DOE office having the predominant financial interest, will not automatically trigger a change in designation.) If the award is the initial award to an organization and no CDO designation for the DOE exists, that awarding activity shall be made the CDO.
 - (2) Additions, deletions, or changes in CDO assignments shall be updated on a quarterly basis.
- h. Guidelines for establishing indirect cost rates for grants, contracts, and other agreements subject to OMB Circulars are provided in the following Department of Health and Human Services (DHHS) brochures, which were issued by the Office of the Assistant Secretary, Comptroller (OASC) and the Office of the Assistant Secretary for Management and Budget (OASMB). Copies of these documents may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

- (1) OASC-1 (Revised), "A Guide for Colleges and Universities," of 9-74.
- (2) OASC-3 (Revised), "A Guide for Hospitals," of 7-74.
- (3) OASMB-5 (Revised), "A Guide for Nonprofit Organizations," of 5-83.
- (4) OASC-10 (Revised), "A Guide for State and Local Government Agencies," of 12-76.

7. RESPONSIBILITIES.

a. Office of procurement, Assistance and Program Management (PR-1) shall:

- (1) Develop and maintain policies and procedures for the establishment and administration of indirect cost rates for commercial and noncommercial organizations.
- (2) Interface with OMB where CFA assignments are designated to the DOE. Coordinate with OMB when changes to DOE CFA assignments are necessary.
- (3) Assign designations and approve redesignation of a CDO for organizations which are awarded DOE contracts and/or financial assistance.
- (4) Distribute indirect cost negotiation agreements provided by the Department of Health and Human Services (DHHS).

b. Heads of Contracting Activities shall:

- (1) Implement the policies and procedures specified herein.
- (2) Establish local written procedures for designating CCOs that will be responsible for establishing and approving indirect cost rate(s), and distributing rate agreements within DOE and to other Federal agencies.
- (3) Designate the CCO who shall be responsible for indirect cost rate matters affecting DOE awards placed with a specified organization when the HCA has been assigned CCO responsibility for that particular organization.
- (4) Request CDO assignment changes, as appropriate.
- (5) Provide updated CFA information annually, when requested by the Office of Policy (PR-12).

c. Cognizant Contracting Officer(s) shall:

- (1) Determine whether DOE or another Federal agency is responsible for negotiating or determining required indirect cost rates for each assigned organization.

- (2) Negotiate advance understandings on particular indirect cost items, when appropriate.
- (3) Establish forward pricing rate agreements for all Federal agencies, when appropriate, as CFA and for the DOE when awards are only from the Department.
- (4) Establish billing rates or provisional rates, as required, for interim reimbursement of-incurred indirect costs for-all Federal awards when assigned CFA responsibility and for the DOE when awards are only from the Department. Monitor the organization's actual indirect cost rates and initiate appropriate actions to revise billing rates which are significantly at variance with expected final rates. Assist other contracting officers, as necessary, when temporary billing rates are required in accordance with DEAR 942.704(b).
- (5) Assure an organization's final indirect cost rate proposal is submitted when due. (Cost allocation plans in the case of State and local governments.)
- (6) Establish final indirect cost rates, predetermined rates or fixed rate with a carry forward provision, as required, for all Federal awards when the CFA and for the DOE when awards are only from the Department.
- (7) Make determinations regarding the allowability of indirect costs suspended or disapproved when a written appeal has been received.
- (8) Request advisory audit services when deemed warranted and appropriate. Audit requests shall flow through the cognizant Federal audit agency (e.g. the Defense Contract Audit Agency (DCAA) or the DHHS). When requesting audits, require the auditor to identify the percent of Government participation in each expense pool (i.e. the Federal Government allocated share).
- (9) Coordinate indirect cost rate negotiation activities, including prenegotiation objectives, and the review and approval of Statewide central service allocation plans, etc., with other affected DOE offices and Federal departments or agencies.
- (10) Enter into indirect cost rate agreements with the contractor or financial assistance recipient. A sample agreement for commercial organizations is shown in Attachment 2, and for noncommercial organizations in Attachment 3, which should be adjusted as required to meet the circumstances involved.
- (11) Before finalizing indirect cost rate agreements when the DOE is the CFA, obtain management approval at two levels above the CCO, when the Federal government allocated share of the indirect cost pool exceeds \$500,000 in a fiscal year and approval of Headquarters, Office of

Business Clearance (PR-13), when the DOE allocated share of indirect costs exceeds \$5,000,000 or more in a fiscal year for all DOE contracts.

- (12) Document actions taken in a formal negotiation memorandum and retain in the work paper files supporting the negotiations, pursuant to FAR 42.705-1(b) (5) and DEAR 915.808. Instructions for preparing a negotiation memorandum are shown in Attachment 4.
- (13) Promptly distribute the indirect cost rate agreement, negotiation report, or summary, as appropriate, to all affected DOE and other affected Federal contracting activities, including the audit office which performed the audit review. (For noncommercial organizations, distribute agreements to the Department of Health and Human Services for Government-wide distribution).
- (14) Assist other contracting officers, as necessary, when quick closeout procedures at DEAR 942.708 are applied.
- (15) Where the DOE has no direct responsibility for the negotiation of rates with the organization in question, the CCO is responsible to:
 - (a) Collect DOE contract information and identify all DOE awards with the specific organization.
 - (b) Notify the CFA of all DOE awards placed with the organization in question.
 - (c) Coordinate with and assist the CFA or cognizant Federal activity (cognizant Federal negotiator), as necessary, in the negotiation of required indirect cost rates with the organization, or a segment thereof, such as a home office, when it is not otherwise assigned to a DOE contracting activity.
 - (d) Obtain and review all indirect cost rate agreements established by the CFA and assure that such indirect cost rates affecting DOE awards are in compliance with DOE regulations and policies (e.g. DOE unique cost principles).
 - (e) Provide all affected DOE activities with the necessary indirect cost rate information required for making awards, administering payments, and determining allowable costs.
 - (f) Monitor the organization's actual indirect cost rates and initiate appropriate actions with the CFA to revise billing rates when they are significantly at variance with expected final rates. Assist other contracting officers, as necessary, when temporary billing rates are required in accordance with DEAR 942.704(b).

(g) Obtain copies of the organization's final annual cost rate proposal(s) when due.

(h) Assist other contracting officers, as necessary, when the quick closeout procedures at DEAR 942.708 are applied;

d. Contracting Officers shall:

- (1) Prior to award, coordinate with the cognizant contracting officer regarding forecasted indirect cost rates and applicable billing rates to ensure that a consistent Departmentwide approach is maintained.
- (2) Require awardees, in the award document, to submit indirect cost rate proposals directly to DOE's CCO when DOE is the CFA, or to the appropriate designated CFA activity. When DOE is not the CFA, the awardee shall be required to only submit an information copy of the proposal to DOE's cognizant contracting officer.
- (3) Notify the cognizant contracting officer of applicable awards and request that current forward pricing rates, billing rates, and final indirect cost rates be provided henceforth.
- (4) Ensure the billing rates and final indirect cost rates Provided by the cognizant contracting officer are properly reflected in-the awardee's payment requests.
- (5) For contracts, when rates are not available from the cognizant contracting officer:
 - (a) Establish temporary billing rates pursuant to DEAR 942.704(b), when necessary to do so.
 - (b) Establish appropriate final indirect cost rates when the quick closeout procedure at DEAR 942.708 is applied.
 - (c) Inform the cognizant contracting officer of such actions taken.

BY ORDER OF THE SECRETARY OF ENERGY:



JOHN J. NETTLES, JR.
Director of Administration
and Human Resource Management

EXAMPLE OF REQUEST FOR CHANGE IN COGNIZANT DOE OFFICE ASSIGNMENT

To: Director, Office of Policy, PR-12

Subject: Request for Change in Cognizant DOE Office Assignment

The DOE Field Office, Albuquerque proposes that the cognizant DOE office assignment for the following organization be changed as shown below:

ORGANIZATION: ABC Corporation, Division X, Chicago, Illinois.

PROPOSED COGNIZANT DOE OFFICE: DOE Field Office, Chicago.

EXISTING COGNIZANT DOE OFFICE: DOE Field Office, Albuquerque.

PARTICIPATING OFFICES; (Summarize number and dollar value of affected awards by DOE contracting office(s).)

INDIRECT EXPENSE RATE(S) STATUS: (Specify organization fiscal year(s) for which forecasted rates, billing rates, and final indirect rates have been established, and any actions to be completed by the existing cognizant DOE office.)

RESPONSIBILITIES: (Specify future actions to be completed by the existing and proposed cognizant DOE offices.)

RATIONALE FOR CHANGE: (Provide pertinent information justifying the proposed change and indicate if both the existing and proposed cognizant DOE offices agree with the change.)

John B. Smith
Director of Contracts Management

Action taken by Director,
Office of Policy (PR-12):

APPROVED: _____

DISAPPROVED : _____

DATE : _____

INDIRECT COST RATE AGREEMENT (Example)

SUBJECT: Final Indirect Cost Rates For Fiscal Year 1984 XYZ Corporation,
Washington, DC

APPLICABLE PERIOD: 1-1-84 through 12-31-84

PURPOSE: The purpose of this Agreement is to establish indirect cost rates for use in the award and management of Federal contracts, grants, and other assistance arrangements that are subject to FAR Subpart 31.2, "Contracts with Commercial Organizations." This Agreement has been negotiated by the Department of Energy on behalf of the Federal Government pursuant to the authority cited in FAR 42.7, "Indirect Cost Rates."

INDIRECT COST RATES:

<u>Indirect Cost Pool</u>	<u>Allocation Base</u>	<u>Final Rate</u>
Manufacturing Overhead	(a)	100%
Engineering Overhead	(b)	75%
Bid & Proposal Expense (B&P)	(c)	2%
Independent Research and Development (IR&D)	(c)	3%
General and Administrative Expense	(d)	5.5%

BASIS FOR ALLOCATION:

- a. Direct manufacturing labor dollars
- b. Direct engineering labor dollars
- c. Total direct costs and overhead
- d. Total costs incurred

BASIS FOR RATE NEGOTIATIONS:

- a. The above rates were based primarily on the findings and recommendations contained in Audit Report Number 12345, of 5-28-85, and the performer's indirect cost rate proposal of 2-28-85.
- b. The rates were based on the performer's treatment of the following items as direct costs:
 - (1) The cost of material purchased directly for the performance of work under Federal awards, commercial orders, and internal projects and work orders.
 - (2) Subcontract costs in direct support of performance.

INDIRECT COST RATE AGREEMENT (Example)

- (3) Expenditures for contracts let under DOE financial assistance awards.
 - (4) Expenditures for salaries and wages of direct labor employees involved in the performance of work, exclusive of overtime premiums.
 - (5) Travel costs incurred directly for performance of work.
 - (6) Overtime premiums on direct labor specifically approved by the contracting officer.
- c. The negotiated indirect cost rates as set forth in this agreement were established pursuant to the terms and conditions of and are applicable to the Federal contracts, grants, or agreements, listed in the attached schedule.
 - d. It is agreed that such indirect cost rates are subject to any contractual limitations or other agreements concerning reimbursement of indirect costs, e.g., ceiling rates.
 - e. Copies of this document may be provided to other Federal agencies as a means of notifying them of the agreement contained herein.
 - f. Current reimbursements for indirect costs to the above department or agency by means other than the rates set forth in this agreement should be adjusted to reflect the use of these approved rates within 30 days of the effective date of this agreement. These rates shall be applied to the appropriate base to identify the proper amount of indirect cost allocable to the Federal awards covered by this agreement.
 - g. Nothing herein shall be construed to prejudice, waive, or in any other way affect any rights of the Government under the provisions of the contracts, grants, or other agreements listed in the attached schedule respecting limitation of the Government's obligations thereunder.

INDIRECT COST RATE AGREEMENT (Example)

h. This agreement is effective on the date of approval by the Federal Government. Questions regarding this agreement should be directed to the Federal Government negotiator referenced below.

FOR THE CONTRACTOR/RECIPIENT

FOR THE DEPARTMENT OF ENERGY

Signature

John J. Jones
Vice President

Name and Title

August 3, 1985

Date

Signature

Mary J. Smith
Assistant Director of Contracts

Name and Title

August 1, 1985

Date

Ben Johnson
Negotiated By

(202) 589-8179
Telephone

Attachment

STATE OR LOCAL DEPARTMENT OR AGENCY
INDIRECT COST NEGOTIATION AGREEMENT
(Example)

FULL NAME AND ADDRESS OF STATE
OR LOCAL DEPARTMENT OR AGENCY

State Department of Energy
100 Capitol Street
Annapolis, MD 20212

DATE: JAN 13, 1989

FILING REF: The preceding
agreement was dated
Jan 10, 1989.

PREAMBLE

The purpose of this Agreement is to establish indirect cost rates for use in award and management of Federal contracts, wants, and other assistance arrangements to which office of Management and Budget (OMB) Circular A-87 applies. It consists of four parts: I - Rates and Bases; II - Particulars; III - Special Remarks; and IV - Approvals. It has been negotiated by the Department of Energy on behalf of the Federal Government pursuant to the authority cited in Attachment A, Section J of OMB Circular A-87.

SECTION I - RATES AND BASES

Type	Effective Period		Rate	Base	Coverage	
	From	To			Location	Applicability
Final	7-1-86	6-30-87	10.62%	1/	All	All Programs
Provisional	7-1-88	6-30-89	10.47%	1/	All	All Programs

~/ The applicable allocation base for the approved rates is total direct salaries and wages.

TREATMENT OF PAID ABSENCES

Vacation, holiday, sick leave pay, and other paid absences are included in salaries and wages and are charged to Federal projects as part of the normal change for salaries and wages. Separate charges for the cost of these absences are not made.

TREATMENT OF OTHER FRINGE BENEFITS

This organization charges the actual cost of each fringe benefit direct to Federal projects. However, it uses a fringe benefit rate which is applied to salaries and wages in budgeting fringe benefit cost under project proposals. The following fringe benefits are treated as direct costs: retirement plan, social security taxes, health insurance, and worker's compensation.

STATE OR LOCAL DEPARTMENT OR AGENCY
INDIRECT COST NEGOTIATION AGREEMENT
(Example) (Continued)

SECTION II - PARTICULARS

1. SCOPE. The indirect cost rates contained herein are for use with grants, contracts, and other financial assistance agreements awarded by the Federal Government to the above department or agency and subject to OMB Circular A-87.
2. LIMITATIONS. Application of the rates contained in this agreement is subject to all statutory or administrative limitations on the use of funds, and payment of costs hereunder are subject to the availability of appropriations applicable to a given grant or contract. Acceptance of the rates agreed to herein is predicated on the following conditions: (a) no costs other than those incurred by the State or Locality were included in the agency's indirect cost pools as finally accepted, and that such costs are legal obligations of the State or Locality and allowable under the governing cost principles; (b) the same costs that have been treated as indirect costs are not claimed as direct costs; (c) similar types of costs have been accorded consistent accounting treatment; and (d) the information which was provided by the agency, and which was used as a basis for acceptance of rates agreed to herein, is not subsequently found to be materially incomplete or inaccurate.
3. ACCOUNTING CHANGES. Fixed or predetermined rates contained in this agreement are based on the accounting system in effect at the time the agreement was negotiated. When changes to the method of accounting for cost affect the amount of reimbursement resulting from the use of this rate, the change will require the prior approval of the authorized representative of the cognizant negotiation agency. Such changes include, but are not limited to, changing a particular type of cost from an indirect to a direct charge. Failure to obtain such approval may result in subsequent cost disallowances. The cognizant negotiating agency must also be notified of any changes to the State's or Locality's organizational structure which affect the amount of reimbursement resulting from the use of the rates.
4. FIXED RATES. If a fixed rate is contained in this agreement, it is based on an estimate of the costs which will be incurred during the period to which the rate applies. When the actual costs for such period have been determined, an adjustment will be made in a subsequent negotiation to compensate for the difference between the cost used to establish the fixed rate and actual costs.
5. NOTIFICATION TO OTHER FEDERAL AGENCIES. Copies of this document may be provided to other Federal agencies as a means of notifying them of the agreement contained herein.

STATE OR LOCAL DEPARTMENT OR AGENCY
INDIRECT COST NEGOTIATION AGREEMENT
(Example) (Continued)

6. ADJUSTMENTS TO REIMBURSEMENTS. Current reimbursements for indirect costs to the above department or agency by means other than the rates set forth in this agreement should be adjusted to reflect the use of these approved rates within 30 days of the effective date of this agreement. These rates shall be applied to the appropriate base to identify the proper amount of indirect costs allocable to the Federal awards covered by this agreement.

SECTION III - SPECIAL REMARKS

1. This agreement is effective on the date of approval by the Federal Government.
2. Questions regarding this agreement should be directed to the Federal Government negotiator referenced below.

SECTION IV - APPROVALS

For the State or Local Department
or Agency

For the Cognizant Negotiation
Agency on behalf of the Federal
Government

State Department of Energy

Department of Energy

Signature

Signature

Ben B. Knight
Name

Truman P. Burt
Name

Director of Fiscal Affairs
Title

Assistant Director of Finance
Title

Date June 30, 1988

Date June 30, 1988

Negotiated by Tom T. Jones

Telephone (202) 252-8178

INSTRUCTIONS FOR PREPARING A
NEGOTIATION MEMORANDUM

1. PURPOSE. This attachment provides instructions for preparing a negotiation memorandum, which describes the negotiation process and the approved indirect cost rates.
2. GENERAL. The memorandum is the documentary evidence of what took place relative to the proposal, review, and approval of those indirect cost rates for [insert appropriate type of awardee, e.g. State or local government, educational institution, nonprofit or commercial organization] for which approval authority was the responsibility of the Department of Energy.
3. STANDARD PROVISIONS. Standard provisions of the negotiation memorandum are as follows:
 - a. Particulars. Identify the organization that submitted the proposal (including name and complete address), date of submittal, and for what functions the proposed rates were submitted. Organization and Government personnel involved in the approval and negotiation process should also be identified in this section. Dates of meetings should be highlighted. This section should also contain a description of any other actions, events, and circumstances related to the approval process that, in the judgment of the approving DOE official, need to be made a part of the formal record.
 - b. Scope. Include the following pro forma paragraph with the correct alternative.

"The instant negotiation covered the [initial establishment] or [establishment of current] indirect cost rates for [insert name of activity] for the period [insert time period]. The established rates are for use with Federal Government contracts and financial assistance instruments awarded by the Federal Government. The resulting rates were negotiated by the Department of Energy representative [insert name], on behalf of the Federal Government, pursuant to the authority of [insert regulatory reference]."
 - c. Summary of Proposed and Approved Rates. Set forth the type of indirect expense rates (final, provisional, fixed, fixed with carryforward, and predetermined), the proposed rates, and the approved rates.
 - d. Analysis and Review. Include language that describes which offices conducted analyses and reviews of the proposal, such as audits by the DOE Inspector General, audits by the Department of Health and Human Services audit staff, and reviews and negotiation support provided by Regional Department of Health and Human Services field organizations, if any. If only the DOE field organization staff performs the review, make a reference to this effect. The following is an example of how the provision may be written.

"The required analysis and review of the proposed rates was conducted by the staff of the DOE Field Office XX. They were supported by the Region XX Indirect Cost Negotiation Staff of the Department of Health and Human Services. All reviews were conducted in accordance with [insert OMB Circular number or DHHS Guide] and applicable Department of Energy regulations. The findings and conclusions resulting from these efforts are set forth in the following section."

- e. Findings. This is the key provision in the negotiation memorandum. It focuses on the proposal and the acceptance thereof or changes thereto. Each element of indirect expense questioned by the auditor, any particular points considered relevant to the review process, and the conclusions of the DOE approving officials shall be set forth in this section. Any change made to the proposed indirect cost pool, allocation base, and/or rate calculation methodology must be fully discussed in this section. The rationale for reinstating auditor recommended indirect cost questioned items, adjustments, etc, must be explicitly stated. In summary, the basis for negotiating the indirect cost expense rates must be made clearly discernible.

Cognizant Contracting Officer Name,
Address and Telephone Number

Signature and date

Approved

Name, title and date

