



EVENTS AND TRAININGS

upcoming CAPLAW trainings on the legal and financial issues critical to CAAs



Ins and Outs of Indirect Costs Under the Super Circular Webinar Series

- **February 18:** Will the 10% De Minimis Indirect Cost Rate Work for Our CAA?
- **February 25:** What is the Best Option for Calculating Our CAA's Indirect Cost Rate?
- **March 4:** Does Our CAA Effectively Estimate and Reconcile Indirect Costs?

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This Webinar Series is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (T/TA) Center. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0441-01. Any opinion, findings, and conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.

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Uniform Guidance Impact on Indirect Costs

CAPLAW Indirect Cost Series – Part 1

February 11, 2015

Workshop Leader: Kay Sohl



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OMB's Big Changes

- Revisions in requirements for **nonprofits & state & local governments** receiving federal funds
- Includes **federal \$\$\$** obtained through agreements with **state, local, and federal** governments
- & federal \$\$\$ provided through **agreements with other nonprofits**

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OMB's Uniform Guidance 2 CFR 200

- Originally published in Code of Federal Regulations on **December 26, 2013**
- Federal agency implementing regs published on **December 19, 2014**
- Effective for awards that begin on or after **12/26/14** & audits of fiscal years beginning after **12/26/14**

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Uniform Guidance Replaces OMB Circulars

- A-110 & A-122
- A-87 & 102
- A-21
- A-133

*But the **circulares** remain in effect for **awards** with start dates before 12/26/14 & **audits** for fiscal years beginning before 12/26/14*

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Uniform Guidance

- Guides all **awards** and **sub-awards** to **recipients** & **sub-recipients**
- Deals with “contractors”(i.e. vendors) only as they do business with recipients & sub-recipients

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Grants/Awards/ & Cooperative Agreements

- Federal \$\$\$ are provided to achieve a **public benefit**
- “**Recipient**” is a governmental or nonprofit entity that receives \$\$\$ directly from a Federal Agency
- “**Sub-Recipient**” is an entity that receives federal \$\$\$ from a “Recipient”

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Key Distinction

- Federal requirements distinguish \$\$\$ in **grants/awards/ & cooperative agreements**
- from
- \$\$\$ in “**vendor**” agreements now called “**contracts**”
- **Substance not name** of agreement determines applicability

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Headline News!

- **Indirect costs**
- **Pass-through requirements**
- **Personnel Cost documentation**
- **Procurement**
- **Computers < \$5,000 are “supplies”**
- **Single audit threshold - \$750,000**

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Exceptions to Uniform Guidance

- **Federal statutes override Uniform Guidance**
- **Federal agencies may have **statutory authority** to limit or disallow certain costs**
- **Link to list of federal agency responses to Uniform Guidance**
- <https://cfo.gov/wp-content/uploads/2014/12/Agency-Exceptions.pdf>

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Big Change for Indirect Costs

- All federal agencies & pass-through entities **must accept** approved **NICR** - negotiated indirect cost rate
- Pass-thru entities are **required** to either allow sub-recipients to **negotiate indirect rate** or use a **flat indirect rate of 10% of MTDC** (modified total direct costs)

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What's in Indirect Costs?

- **Administrative** costs which **benefit** the whole organization are **indirect costs**
- Indirect Costs may also include **facilities** & other **shared** costs

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Indirect Costs

- Costs which **benefit multiple** programs and functions
- Includes but not limited to **Administrative** costs
- Too costly to track the exact benefit to each program or function – **benefit must be estimated**

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Administrative Functions

- Board support
- Overall strategic direction
- Financial management
- HR management
- IT management

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Administrative Costs

Costs of performing administrative functions:

- Admin costs that benefit whole agency function as **indirect** costs
- Administrative costs that benefit a single cost objective may be treated as **direct** costs (**program management costs**)

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“Recovering Costs”

- Uniform Guidance allows the recipient of funds to charge **allowable costs** to the award
- Other costs are deemed **unallowable** and **cannot be charged** to the award

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Options under Uniform Guidance

- All federal agencies & pass-through entities **must accept** approved **NICR** - negotiated indirect cost rate
- Pass-thru entities are **required** to either allow sub-recipients to **negotiate indirect rate** or use a **flat indirect rate of 10%** of **MTDC** (modified total direct costs)
- Administrative/shared costs **allocated & charged** as **direct costs**

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Pass-Through Rate Negotiation

- **May** negotiate indirect cost rates with sub-recipients but **do not have to**
- **If** you negotiate indirect rates with sub-recipients, you must follow Uniform Guidance rules

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Challenges for Pass-Through Entities

- **Must** permit sub-recipients to recover indirect costs
- If total funds available do not increase, result will be **reduction in \$\$\$** for direct program costs

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Pass-Through Entities Cannot

- **Force** or **entice** sub-recipients to accept an indirect cost rate that is **lower** than their approved **NICR** or the **10% de minimis** rate
- **Cannot award points** or **preferences** to applicants with lower indirect rates

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3 Ways to Recover Administrative Costs

- 1. Federally Negotiated Indirect Cost Rate**
- 2. 10% de Minimis Rate**
- 3. Direct Cost Charging method**

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CAPLAW Webinars

- 2/18 10% de Minimis Rate**
- 2/25 NICR Choices**
- 3/4 Estimating & Reconciling
Indirect Costs**

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NICR

- **Negotiated Indirect Cost Rate**
- **Obtained through negotiation with cognizant federal agency**
- **Must have direct federal award in order to obtain a NICR**

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NICR: Multiple Methods to Compute

All A-122 NICR methods continue to be allowed by Uniform Guidance:

- **Simplified Allocation Method**
- **Multiple Allocation Base Method**
- **Direct Allocation Method**

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Indirect Cost Rates

(Both NICR and 10% de Minimis)

- Based on a fraction in which
- **Numerator** = Indirect Costs
- **Denominator** = a “base”
- Resulting % will be applied to the base to determine **indirect costs** which may be charged to awards

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Defining the Numerator

- Indirect costs = costs for which benefit cannot be determined directly
- 2 distinct methods permitted for **NICR**
 1. Indirect = Administrative Costs
 2. Indirect = Admin + Facilities

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Defining the “Base”

Three Choices for **NICR** Proposals:

- Total Direct Personnel Costs
- Total Direct Salaries & Wages
- Modified Total Direct Costs

De Minimis 10% Rate Basics

- Only available to organizations that have **never had a NICR**
- No negotiation required
- **Modified Total Direct Costs** must be used as the base for the calculation

Computing & Using the 10% Rate

- **Numerator** is total allowable Indirect Costs
- **Denominator** = Modified Total Direct Costs
- **Rate** is applied to **Modified Total Direct Costs** for each cost center

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Computing MTDC Indirect Cost Rate

$$\begin{array}{c} \text{Indirect Costs} \\ \div \\ \text{Modified Total Direct Costs} \\ = \\ \text{Indirect Cost Rate} \end{array}$$

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Computing MTDC

$$D = A - (B+C)$$

- A. Total Costs
- B. Direct Exclusions & Unallowable Costs
- C. Indirect Costs
- D. Modified Total Direct Costs

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Modified Total Direct Cost

§ 200.68

- **Indirect costs** expressed as a % of **modified total direct costs**
- **Total direct costs include** all direct costs whether or not they are funded with Federal \$\$
- **Total Direct costs** includes **unallowable** direct costs

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MTDC Direct Cost Base **excludes:**

- Equipment & capital expenditures
- Participant support costs
- Portion of each sub-award in excess of \$25,000
- Other costs that would distort distribution of indirect costs

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Indirect Cost Rate Modified Total Direct Cost Base

TOTAL Expenses	Unallow indirect costs	Excluded direct costs	Indirect costs	MTDC	prog 1 direct	prog 2 direct	prog 3 direct	unallow direct cost
4,450,000	10,000	40,000	400,000	4,000,000	1,000,000	2,100,000	700,000	200,000
Indirect	400,000							
MDTC	4,000,000							
Indirect rate	0.10							

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Applying Indirect Cost Rate

TOTAL Expenses	Unallow indirect costs	Excluded direct costs	Indirect costs	MTDC	prog 1 direct	prog 2 direct	prog 3 direct	unallow direct cost
4,450,000	10,000	40,000	400,000	4,000,000	1,000,000	2,100,000	700,000	200,000
Indirect Rate .10				400,000	100,000	210,000	70,000	20,000
Excluded costs							40,000	
Unallow indirect								10,000
Total Costs					1,100,000	2,310,000	810,000	230,000

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Must Allocate Indirect Costs to All Cost Objectives that Benefit

- Includes allocation to **unallowable** cost centers
- Example: **Lobbying** cost objective is generally unallowable but must be allocated share of indirect & other common costs

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Preparing to Use the 10% de Minimis Indirect Rate

- Identify your indirect costs
- Determine whether to include **Facilities** costs as well as **Administrative** costs in **indirect** category
- Create MTDC worksheet

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Key Preparation ???

- Are our Indirect Costs actually **greater** than 10% of Modified Total Direct Cost?
- Are our Indirect Costs actually **less** than the 10% MTDC?
- How will we handle requirements for **fair allocation** of indirect costs to all cost centers?

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One More Alternative

1. Federally Negotiated Indirect Cost Rate
2. 10% de Minimis Rate
3. **Direct Cost Charging method**

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Direct Charging Shared Costs

- **Cost allocation plan** documents an allowable method to estimate the benefit of shared costs to a federal award
- Shared costs are allocated according to cost allocation plan and the appropriate **portion** of the cost is **charged** to federal award as **direct cost**

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Allocation Choices

- One **Shared Cost Center** to collect all shared costs & allocate through single line journal entry
- **Multiple Shared Cost Centers** to collect costs to be allocated using different methods
- Allocate **transaction by transaction**

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Direct Cost Challenges

- Finding defensible **allocation method**
- Constant **flux** in allocated costs as programs expand and contract
- **Difficult to explain** why shared costs are charged as direct
- Under Uniform Guidance, **certain costs may only be charged as indirect** (i.e., using NICR or 10% rate)

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Auditor Views Differ

- Some auditors are **comfortable** with charging allocated shared costs as direct costs
- Other auditors **challenge** the basis for allocation of some costs – such as Executive Director compensation
- Others **resist** charging shared costs directly **altogether**

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HELP!!!! COFAR FAQ & Webinars

- Council on Financial Assistance Reform (COFAR)
- FAQ updated November 2014
- Recorded webinars for download
- <https://cfo.gov/cofar/>

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More Help

- Department of Labor
- Guide to Negotiating Indirect Cost Rates 2015
- <http://www.dol.gov/oasam/boc/DC-D-2-CFR-Guid-Jan2015.pdf>

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CAPLAW Webinar Series

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|-----------------------------|--|
| Feb 18th | 10% de Minimis Rate |
| Feb 25th | NICR Choices |
| March 4th | Estimating & Reconciling Indirect Costs |

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