

	Uniform Guidance Communication
Topic:	F&A for Subrecipients Without A Formally Negotiated Rate
Purpose:	Communication of changes to F&A for subrecipients without a formally negotiated rate in the Uniform Guidance
Uniform Guidance Communication (UGC):	4.0
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UG Citations: [2 CFR Part §200.414 Indirect \(F&A\) Costs.](#)

[2 CFR Part §200.331 Requirements for Pass-Through Entities.](#)

This information is provided as guidance applicable to all federal awards made on or after December 26, 2014. It also applies to Federal projects receiving incremental funding on or after December 26, 2014. Awards/Funding received prior to this date are subject to former conditions found in OMB Circular A-21 and A-110.

When working with a subrecipient that does not have a negotiated indirect cost rate agreement, the subrecipient may utilize a *de minimis* rate, which is the preferred choice, or, in exceptional and unique situations, negotiate a rate with Duke directly.

Utilizing a *De minimis* Rate:

UG Section 200.331 – Provides guidance on applying a *de minimis* rate to a subrecipient that does not have a federally negotiated rate, either as a rate negotiated between the pass-through entity (Duke University) and the subrecipient, or a *de minimis* indirect cost rate as defined in section 200.414 Indirect (F&A) Costs.

UG Section 200.414 advises that subrecipients may elect to charge a *de minimis* rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. Please note that certain federal agencies have limited the international rate to 8%; be sure to check agency-specific guidance for additional information. In developing budgets with subrecipients that do not have a federally negotiated F&A rate, Duke University strongly recommends that the *de minimis* rate should be discussed with the subrecipient prior to submission of the proposal, and that this rate should be incorporated into the Duke University budget and budget justification.

Note: If the Federal program has a published cap on F&A recovery, that rate must be applied regardless of the availability of a *de minimis* rate.

Indirect Rate Negotiated Directly with Duke (to be used only in very exceptional circumstances):

As discussed in GAP 200.330, Facilities and Administrative (Indirect) Costs on Sponsored Projects, while strongly discouraged, in cases of exceptional circumstances, a subrecipient on a federally funded award received by Duke University may need to qualify for an indirect (F&A) cost rate negotiated directly with Duke.

Should the subrecipient believe that they require an indirect rate negotiated directly with Duke, it is the department's responsibility to alert ORA/ORS to the situation. Approval must be received from ORA/ORS to begin the rate negotiation process.

Once the central office approval is obtained, the subrecipient, at a minimum, must provide the following information:

- most recent fiscal year-end financial statements reviewed by an independent public accounting firm and,
- most recent fiscal year-end trial balance that ties to the financial statements, and
- indirect (F&A) cost rate proposal, including calculated and requested indirect (F&A) cost rate.

Upon receipt of the documentation listed above, the Office of Cost Reimbursement and Analysis (CRA) will review the submitted documentation to determine one of following outcomes:

- 1) acceptance of the subrecipient's calculated indirect (F&A) cost rate
- 2) acceptance of the subrecipient's requested rate (if lower than calculated rate)
- 3) recommendation of a new rate lower than the calculated and/or requested rate based on review of the indirect (F&A) cost rate proposal
- 4) denial of a negotiated rate based on review of the indirect (F&A) cost rate proposal (rate would revert to the 10% de minimis rate as defined in §200.414 Indirect (F&A) costs, paragraph (f) of Subpart E of 2 CFR, Part 200)

CRA's review will ensure the subrecipient's indirect cost rate proposal materially aligns with the requirements for development and submission of indirect (F&A) cost rate proposals and cost allocation plans as contained in Appendices III-VII and Appendix IX of 2 CFR Part 200, as applicable.

If the outcome of the CRA review results in a negotiated indirect (F&A) cost rate with the subrecipient, the effective period of the rate may not exceed a period of four years. In the Negotiated Indirect Cost Rate Agreement, CRA will document the effective period of the rate. The duration of the effective period may be less than four years at the discretion of CRA based on a number of factors including but not limited to:

- delta between calculated and negotiated rate
- identification of material one-time/non-routine expenses in the indirect (F&A) cost pool
- materiality of proposed subaward (compared to research base used in the indirect (F&A) cost rate proposal)
- maturity of subrecipient organization

Upon final negotiation of the approved rate and effective period, CRA will provide to the Office of Research Administration / Office of Research Support (ORA/ORS) and the Office of Sponsored Programs (OSP) the Negotiated Indirect (F&A) Cost Rate Agreement to be executed by the subrecipient. The fully

executed Negotiated Indirect (F&A) Cost Rate Agreement will be retained in ORA/ORS as well as the Office of Sponsored Programs (OSP) with the specific award files to which the negotiated rate is applicable.

Recommended Departmental Best Practices:

- Departments should determine when preparing budgets the F&A rate of the subrecipient and be prepared to collect official documentation from the subrecipient of the formally negotiated rate.
- If the subrecipient does not have a formally negotiated F&A rate, the department should alert the subrecipient to the need to use a *de minimis* rate.
- In the rare situation in which a subrecipient needs to negotiate an F&A rate directly with Duke, ORA/ORS needs to be alerted to the situation and must provide approval before the negotiation can begin. Departments must alert ORA/ORS to this need during proposal and budget preparation to allow enough time for rate negotiation, should this be approved.