

State of California Agencies Indirect Costs and LA County Contracts Timesheets

Jim Fong, *Interim* Assistant Director, Contracts
Office of Contract and Grant Administration
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State of California - Recent History

- January 2010 – Assembly Bill 20 directed the State of California to negotiate model contract terms for UC and CSU for research, training or public service projects
- November 2015 – All three parties signed an MOU to implement the California Model Agreement (CMA) starting January 1, 2016.
- Negotiations did not address Patents and Indirect Costs (IDC)

The CA IDC Plan 2016

Facilities	Administration	Total Rate	Base	Effective Date
0%	25%	25%	MTDC	January 1, 2016
5%	25%	30%	MTDC	July 1, 2017
10%	25%	35%	MTDC	July 1, 2018
15%	25%	40%	MTDC	July 1, 2019

The CA IDC Plan 2018

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0%	25%	25%	MTDC	July 1, 2017
0%	25%	25%	MTDC	July 1, 2018
5%	25%	30%	MTDC	July 1, 2019
10%	25%	35%	MTDC	July 1, 2020
15%	25%	40%	MTDC	July 1, 2021

Standing Exceptions

The authority to approve indirect cost exceptions for Federal and State of California agencies rests with the UC Office of the President (UCOP)

- California Department of Food and Agriculture (CFDA)
 - 15% through June 30, 2018, 20% through June 30, 2019, and 25% through June 30, 2020
- Marketing Orders, Agreements, Councils and Commissions
 - various
- California Institute for Regenerative Medicine (CIRM)
 - complicated formula and not a straight percentage

Requesting an Exception

- An exception request requires Chancellor or designee approval
 - A clearly stated rationale for the reduced indirect cost recovery
 - What differentiates the project from other projects to merit exceptional treatment
 - The mere fact that the solicitation limits indirect costs is not enough reason for UCOP to approve
- Exception requests are sent to UCOP Chief Financial Officer for consideration

Individual Exceptions

- Office of Statewide Health Planning and Development (OSHDP)
- California Department of Transportation (Caltrans)

Case Study (Caltrans)

Caltrans – Division of Research, Innovation, and System Information (DRISI)

- August 2017 – formal proposal submitted using the 25% IDC rate for \$200,000
- December 2017 – Caltrans program official tells PI to submit a budget at 20% IDC rate based upon DRISI Directive 17-009
 - IDC would lower from \$40,000 to \$33,333

Case Study (Caltrans)

- Lots and lots of phone calls with the PI!!!
- Discussions involving Marcia Smith, VCR, PI's Dean and Chancellor Block
- January 10, 2018 – Caltrans IDC issue is discussed at the Council of Chancellors who all agreed to hold firm at the 25% IDC rate
 - “This action is a necessary step toward UC’s recovery of a greater portion of the full, real costs of research, which are needed in order for UC to maintain the operations of its first class campuses”

Case Study (Caltrans)

- February 1, 2018 – compromise is reached between Caltrans DRISI and UCOP
 - Some allowed at 20% with the rest at 25%
- Further negotiation between Caltrans and UC/CSU on an appropriate IDC rate
 - Stay tuned

Proposal Reminder

- New State of California IDC Rates should be used when the project:
 - 30% - starts between July 1, 2019 and June 30, 2020
 - 35% - starts between July 1, 2020 and June 30, 2021
 - 40% - starts after July 1, 2021
- IDC rate will be locked for the "life of the project"

Proposal Tips

- What to do when a solicitation limits Indirect Costs to a lower rate than what UCOP allows?
 - Inform and advise the PI that UCOP needs to approve an exception to policy and UCLA may not be able to accept the award
 - If PI wants to move forward with the proposal at the lower rate outlined in the solicitation, provide OCGA a rationale as outlined earlier for the Chancellor's consideration
 - OCGA will also need to contact the Sponsor to discuss the use of UC/CSU's standard rate for State of California

Los Angeles County – Recent Issue

- Several projects funded by the Ryan White HIV/AIDS Program
 - Federally funded program through the LA County
 - Program provides medical care and essential support services for people living with HIV who are uninsured or underinsured

Required Timesheets

- LA County interpreted a certain provision to require UCLA to track the number of hours worked each day for all employees paid on the project
- “Employee time and effort to be documented, with charges for the salaries and wages of hourly employees to ... be supported by records indicating the total number of hours worked each day”

Required Timesheets

- UCLA cannot do this for its exempt employees who function in a “bona fide executive, administrative, or professional capacity”
 - 29 CFR Part 516.3 excludes such individuals from reporting time in the number of hours each workday
- UCLA’s Effort Reporting System (ERS) is used to keep track of effort by percentage on federally funded projects
- ERS is an accepted system and methodology that reflects the distribution of covered employees’ activity allocable to each project

Timesheets Resolution

- Several group discussions and face-to-face meetings between UCLA and LA County
- Breakthrough this week: LA County accepted the ERS
- Things left to do:
 - Work on contract language to prevent this issue from happening again
 - Work with other LA County Departments on a model Contract Agreement

Proposal Tips

- For proposal budgets requesting hourly rates
 - Don't do it!
 - If compelled to provide this information, include a disclaimer in the Budget and Budget Justification

Hourly Rate Disclaimer

- **Disclaimer:** The individuals included in this proposal are appointed to Full Time Effort (FTE) positions and appointments on externally sponsored projects are a percentage of that full time effort. The University of California does not pay these employees based on labor hours but rather by percent effort. Budgetary figures based on hours and or hourly rates are inconsistent with the University's practices and are provided for estimating purposes only. Furthermore, the University will not bill by hours but rather by percent effort. The University's effort reporting and invoicing are consistent with the percent of effort process outlined in OMB Circular A-21 Cost Principles for Educational Institutions, Section J.10.c.