



Department of Health Care Services



BRADLEY P. GILBERT, MD, MPP

DIRECTOR

GAVIN NEWSOM

GOVERNOR

DATE: May 22, 2020

BEHAVIORAL HEALTH INFORMATION NOTICE NO.: 20-020

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Opioid Maintenance Providers
California State Association of Counties
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators

SUBJECT: Department of Health Care Services (DHCS) Behavioral Health Cost Rate Policy for Federal Formulary and Discretionary Grants

EFFECTIVE DATE: This notice is effective July 1, 2020, and shall remain in effect until superseded or rescinded.

PURPOSE

This Information Notice (IN) is to inform subrecipients and contractors of the newly adopted Behavioral Health Indirect Cost Rate (ICR) policy for Federal formulary and discretionary grants and cooperative agreements.

This policy applies to all subrecipients and contractors funded by the Federal Substance Abuse and Mental Health Services Administration (SAMHSA) through a pass-through relationship with the Department of Health Care Services (DHCS), which currently includes the following programs:

- Substance Abuse Prevention and Treatment Block Grant;
- Community Services Mental Health Block Grant;
- Projects for Assistance in Transition from Homelessness;
- Strategic Prevention Framework – Partnerships for Success;

- State Opioid Response; and
- State Opioid Response 2.

BACKGROUND

Pursuant to Title 45 Code of Federal Regulations (CFR), Part 75, DHCS, as a pass-through entity, must ensure that each subrecipient/contractor has an approved federally recognized ICR negotiated between the subrecipient/contractor and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient/contractor (in compliance with this part), or a *de minimis* ICR as defined in *45 CFR Part 75.414(f)*.

For subrecipients/contractors to obtain a negotiated ICR with a federal awarding agency, a direct relationship (direct award) with the federal agency is required. As described above, if the subrecipient/contractor does not possess a negotiated ICR, a 10 percent ICR may be used. DHCS has the option of negotiating ICRs greater than the 10 percent rate with subrecipients/contractors, but is not required to do so.

- POLICY

DHCS BH is adopting a formal ICR policy, whereby each subrecipient/contractor that does not have a federally approved ICR is required to prepare and retain for monitoring and audit purposes an indirect cost rate proposal (ICRP) for either the 10 percent rate of Modified Total Direct Costs (MTDC), or a negotiated rate in compliance with 45 CFR Part 75 Appendix VII – States and Local Governments, and Appendix VIII – Non-Profit Entities, and the guidance provided in this IN.

Submission of ICR Certification

To be eligible for recoupment of indirect costs, subrecipients/contractors must submit a certification form (to be distributed at a later date) to the ICRcertification@dhcs.ca.gov mailbox by December 31 to receive certification for the following State Fiscal Year (SFY). Certifications will be approved by DHCS for a period of three years. Entities must select one of the following options:

1. *Federally Negotiated ICR*: submit a copy of the federal approval, with an attestation signed by the agency or department official and the county auditor or fiscal representative.
2. *10 percent rate*: certify that the entity does not possess a negotiated federal ICR and will receive less than \$35 million in direct federal funding for the fiscal year requested (no certification resubmission required; the 10 percent rate may be used indefinitely)
3. *Negotiated rate*:

- a. The entity must provide the ICR type, methodology type, and distribution base used in calculating the proposed ICR, in compliance with 45 CFR Part 75 Appendix VII (for States and Local Governments) and Appendix VIII (for Non-Profit Entities) and the guidance provided in this IN.
- b. If the entity receives more than \$35 million in direct federal funding for the fiscal year requested, the proposal must be submitted to the federal awarding agency for approval prior to receiving the direct federal funding.
- c. ICRPs must be developed, and if requested, submitted to DHCS Community Services Division (CSD) within six months of the end of the SFY (December 31).
- d. Any negotiated indirect cost rate is subject to a 25 percent cap. If less than 25 percent is calculated, the calculated rate is to be used.
- e. Submission for the proposed rate must be reviewed and signed by the agency or department official and the county auditor or fiscal representative.
- f. The ICRP will be reviewed by DHCS and, if approved, a formal written agreement will be provided.

The ICR established through the certification process will take effect in the following SFY. For example, the ICR that is certified following the December 2020 submission will take effect on July 1, 2021, for SFY 2021-2022. DHCS will provide approval of certification prior to the start of the SFY.

As this Behavioral Health ICR policy will take effect on July 1, 2020, contractors may submit to DHCS their certification documentation for SFY 2020-2021 by September 1, 2020, which may be retroactively applied to contractor expenditures beginning July 1, 2020.

The established ICR must be used consistently for all SAMHSA grants and cooperative agreements subawarded by DHCS. Subrecipients/contractors must retain ICR calculations and supporting documentation in accordance with the records retention requirements contained in 45 CFR Part 75.361. The ICR documentation will be subject to review during monitoring and audits.

Direct Charge of Administrative Costs

Administrative and clerical salaries should normally be treated as indirect costs. Direct charging of these costs to the grant may be appropriate only if the following conditions are met:

1. Services are integral to a grant/cooperative agreement project or activity;

2. Individuals involved can be specifically identified with the grant/cooperative agreement project or activity;
3. Costs are explicitly included in the program budget and can be segregated by type of costs;
4. Costs have the prior written DHCS approval; and
5. Costs are not also recovered as indirect costs (i.e. double charging).

DEFINITIONS

Federal Awarding Agency – The federal agency that provides a federal award directly to a non-federal entity.

Pass-Through Entity – A non-federal entity that provides a subaward to a subrecipient/contractor to carry out part of a federal program.

Non-Federal Entity – A state, local government, Indian tribe, institution of higher learning, or non-profit organization that carries out a federal award as a recipient or subrecipient/contractor.

Direct Costs – Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect.

Modified Total Direct Cost (MTDC) – All direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the pass-through entity for indirect costs. Guidelines for determining MTDC charged to federal awards are provided in *45 CFR Part 75.2*.

Indirect Costs (Facilities and Administration or F&A) – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

There is no universal rule for classifying certain costs as either direct or indirect (F&A). A cost may be direct with respect to some specific service or functions, but indirect with respect to the federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or indirect (F&A) cost in order to avoid possible double-charging of federal awards. Guidelines for determining direct and indirect (F&A) costs charged to federal awards are provided in *45 CFR Part 75.412-75.414*.

Indirect Cost Pool – The indirect cost pool is the accumulated costs that jointly benefit two or more programs or other cost objectives. Indirect cost pool expenditures typically include:

- Administrative salaries and fringe benefits associated with overall financial and organization administration; and
- Operation and maintenance costs for facilities and equipment, and payroll and procurement services.

Disallowed Costs – Those charges to a federal award that the federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable federal statutes, regulations, or the terms and conditions of the federal award.

Indirect Cost Rate – A device for ensuring that indirect costs are applied uniformly throughout the year to all federal programs regardless of the timing that both indirect costs and base costs were incurred.

Indirect Cost Rate Proposal – The documentation prepared by a non-federal entity to substantiate its request for the establishment of a ICR.

Indirect Cost Rate Type – In agreeing to negotiate an ICR, CSD recognizes the following indirect cost rate types:

1. A **final** rate is established after the costs are known, within six months of the end of the state fiscal year (December 31); or
2. A **10 percent de minimis** rate of MTDC.

Distribution Base or Direct Cost Base – The term “Base” refers to the accumulated direct costs (usually (a) total direct salaries and wages with or without fringe benefits, or (b) total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual federal awards. The direct cost base selected

should result in each award bearing a fair share of the indirect costs in reasonable relation to the benefits received from those costs. Types of distribution bases are:

1. **Modified Total Direct Cost** – This base includes all direct costs incurred by the organization with the exception of distorting items such as equipment, capital expenditures, pass-through funds, and subcontract or subgrant over \$25,000.
2. **Direct Salaries and Wages** – This base includes only the direct salaries and wages incurred by the organization.
3. **Direct Salaries and Wages plus Fringe Benefits** – This base includes only the direct salary and wages and the direct fringe benefits incurred by the organization.
4. **Facilities and Administration (F&A)** – This base includes direct salaries, cost pool salary percentages and utilities, depreciation of buildings and equipment, physical plan, rent, etc.

Methodology Types – There are two basic methods for calculating indirect cost rates:

1. **Simplified Method** – Where each of a recipient agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished under the simplified method in compliance with 45 CFR Part 75 Appendix VII – States and Local Governments, and Appendix VIII – Non-Profit Entities.
2. **Multiple Allocation Base Method** – Where a recipient agency's indirect costs benefit its major functions in varying degrees, the multiple rate method is more appropriate in compliance with 45 CFR Part 75 Appendix VII – States and Local Governments, and Appendix VIII – Non-Profit Entities.

Additional information can be found in the United States Department of Health and Human Services (HHS) Guide for State and Local Governments or the HHS Guide for Non Profit Organizations.

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REFERENCE

Title 45 CFR Part 75 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Grants

This ICR policy for federal formulary and discretionary grants will be incorporated into all SAMHSA-funded contracts and agreements.

If you have any questions regarding this policy, please e-mail ICRcertification@dhcs.ca.gov or contact Ivan Bhardwaj, Chief, Contracts and Grants Management Section, at (916) 345-7483.

Sincerely,

Marlies Perez, Chief
Community Services Division