Final Transcript

HUD-US DEPT OF HOUSING & URBAN DEVELOPMENT: 10% De Minimis Rate

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SPEAKERS

Robin Booth

PRESENTATION

Moderator

Ladies and gentlemen, thank you for standing by, and welcome to the 10% De Minimis Rate conference call. At this time, all participants are in a listen-only mode. Later we will conduct a question and answer session. Instructions will be given at that time. [Operator instructions]. As a reminder, this conference is being recorded.

I would like to now turn the conference over to our host, Ms. Robin Booth. Please go ahead.

Robin

Good afternoon, and welcome to Understanding Indirect Cost Rate, De Minimis Rate, and Cost Allocation Plans. First, we're going to review some of the logistics for this webinar. For those that may see my screen, I guess if you can't hear my voice, the call-in number is 1-800-260-0712, and the participant code is 445584. This webinar is being recorded.

The playback number along with the presentation, the handout, and a transcript will be on the HUD Exchange in the archives section. Usually it takes, I would say about two business days for this to post to the HUD Exchange, but they remain on the HUD Exchange for an extended period of time. Your lines have been muted during the presentation. When we discuss how to ask questions, we'll also let you know how you can go into queue to be able to ask a question live.

If you registered, you should have received handouts prior to the webinar, but if you haven't, in addition, they are available on the control panel. Just click on the document and the download. It's a PDF document that's actually in the control panel. If you click on that, you should be able to download the presentation.

Within 24 to 48 hours, you will received a thank you email. That is your certificate. There will not be an attachment. The email itself will be your certificate, so please keep that for your records.

For this webinar, since we have a smaller number of participants you will be able to ask questions multiple ways. If you would like to ask a question during the presentation, you can always use your live chat box. We do have individuals available to respond to your questions. You will simply go into your control panel, and as indicated here, type in your question. You will probably receive a response through this email chat from our staff that are available to respond to your questions.

In addition, we will be allowing for live questions. If you have a question that you would like to ask during the presentation, I will be making various stops and asking if there are any questions in the queue. You should push star 0 on your phone. You'll then be placed into queue, and when I ask the Moderator if there are any questions, they will then release the call for you to be able to ask your question live.

If after this presentation you realize you have some additional questions or someone in your organization does, you can always send the questions to housing.counseling@hud.gov. If you put Understanding Indirect Cost Rates in the subject line, it makes it much easier to distribute the questions to the appropriate individuals. You will receive a response in a timely manner.

Once again, today's webinar is being recorded, and it will be available to you on HUD Exchange. Immediately following this webinar, you'll receive a survey. We respectfully request that you please complete that brief survey and send it us. The more detailed and the more information you provide really assists us in developing training materials that provide you with the kinds of assistance and information that will assist you with this grant. So, we welcome any feedback, please complete that survey, and we definitely use that information for future planning purposes.

At this point, we will go into the presentation, and today we're going to talk about the fascinating world of understanding indirect cost rate, de minimis rate, and cost allocation plans. I am Robin Booth. Our company is the current contractor providing quality technical assistance and financial administrative reviews. A lot of you may have been in contact, or we may have worked with you in doing financial and administrative reviews or technical assistance, action plans, financial analysis, and potentially one-on-one training.

So, we have in-depth knowledge of not just his particular topic, but any topic relative to financial areas and the comprehensive housing counseling grant, and you can request further assistance subsequent to these trainings if you feel like your organization needs them in this particular area.

So, today, this training is not designed to try to really teach you how to do comprehensive indirect cost rates or cost allocation plans. Those things tend to be very complex. Oftentimes, it's important that you have accounting or financial individuals that assist you in that process, but what we do hope to achieve today is to give you an understanding of the indirect costs and indirect cost rates specifically how they relate to this grant. It's important that you understand the difference between direct costs and indirect costs, not just for this grant but that also helps you from a budgeting perspective as you run your organization.

We wanted to be able to assist you in identifying unallowable and excluded costs. As most of you know, under 2 CFR Part 200, the Uniform Guidance, there are specific selected costs that are expressly unallowable.

So, because this is a federal award, there are some costs that you simply cannot charge to the grant as a federal award. So, we want to make sure you understand what those costs are.

We want to give you an understanding, too, of your options. What can you do? How can you get reimbursed for indirect costs? That's when we'll talk about the 10% de minimis rate, which was at this point, I keep saying newly effected Uniform Guidance, but it's been about a year, almost two years now. So, hopefully most of us now have adopted the full principles of the Uniform Guidance.

Whether you have a negotiated indirect cost rate agreement, which is referred to as NICRA, or you're using a cost allocation plan, which is really a cost allocation plan, as we'll talk about is really you're allocating all of your costs in one way or another as a direct cost, but we'll talk about how you do that.

Then, we'll compute the indirect cost for each option. If you're an intermediary or an MSO and you need to understand your subrecipient considerations, or if you're a subrecipient you need to understand what your options are relative to indirect cost rates. We will cover that topic.

The importance of your record retention requirements because any of this, whatever rate you're using could be subject to some type of financial audit or review, whether it's through this particular grant or maybe it's through a cognizant agency if you have a negotiated indirect cost rate agreement, or in any other funding sources where they may want to be able to audit your particular indirect costs to verify that those costs meet the cost principles under the Uniform Guidance.

As I said, throughout, I'll stop in a couple of places and ask if there are any questions in the queue. We have staff online in the chat that will answer any of your immediate questions if you would just like to submit a question that way. Needless to say, if subsequent to the training you have a question, we'll tell you again where you can submit those questions by email.

So, let's talk about what an indirect rate is. So, agencies such as yourselves, whenever there's a grant or federal award, ultimately you're providing services that the federal government would provide if they had the internal staff and resources to do so. So, with that in mind, the federal got wants to ensure that it's reimbursing you for 100% of those direct expenses associated with the performing that grant that would perform.

Now, because the housing counseling grant is a cost reimbursement grant, therein lies all of these principles because it's reimbursed by actual cost incurred, so it's important to the government that they reimburse you 100% for your direct costs, and what we'll talk about a little bit later are what are direct costs. What are direct costs common to this grant, which for purpose of this training are probably most critical to you?

Then, you also have to understand that under the cost principles, even with direct expenses, there's still certain cost principles that apply, and they have to do with the cost being allowable, reasonable, allocable, and indirect. These terms are specific to federal government. If you talk to your accountant or your CPA, and they're not familiar with federal awards, they probably may not be familiar with that terminology as it relates to cost, so I often say it's important to understand that this terminology and these cost principles are applicable to federal awards, whether it's through HUD or any other federal agency.

Now, it does depend on what type of grant you have meaning if you have a firm fixed price versus a cost reimbursement, but a cost reimbursement, these principles are very, very important, and they are, as I said, indicative to a federal grant. We'll go over what we mean by an allowable cost, reasonable, and allocable costs.

So, what happens is once you've determined what your direct expenses are, the government then says we want to pay our fair share of your indirect costs because we know you incur costs just to be in existence that allow you to perform the services that you're performing, and although they're not really directly related to this grant, or they may be impacting multiple grants, we still want to be able to reimburse you a fair share of the burden of your management in general and your facility costs that you incur simply by being in existence to be able to perform these services.

That's when we get into the government trying to determine what do we mean by a fair share. How do we come up with what's fair for you to be able to charge the government to have the government reimburse you for indirect costs. We get into these three options, option one being the 10% de minimis rate, option two being the negotiated indirect cost rate, or option three being a cost allocation plan.

Now, you make the determination of which option that you would like to pursue considering if you're eligible for it because certain options you may not be eligible for because one, the 10% de minimis rate, they have specific eligibility requirements, so we'll go over what that requirement is.

With the negotiated indirect cost rate, you have to be able to negotiate with a federal cognizant agency who'll approve that rate, so that may not be an option for you because maybe you don't necessarily have a cognizant agency that's willing to incur the time and the cost associated with approving you for a NIRCA.

Then, a cost allocation plan, you have to have a very good accounting system that's able to provide you with detailed accounting information to support the methodologies you'll use to determine what those costs are and how they should be allocated to each grant.

So, we'll go over those options, and as I said, this topic can be complicated. I'll try to keep it as general to give you a general understanding of what you're considering here, but once you identify your options, I strongly recommend that you consult with your internal accounting, or if you use external accounting, but consult with someone who has an accounting and financial background and understands the federal awards to then determine how you implement that option or maybe even how you determine what's the best option.

So, how is this done? An agency should do the following steps to charge direct and indirect costs. The first thing you want to do is you have to know what you're direct costs are. You have to know your direct costs kind of across the board, not just for your grant.

So, what's a direct cost generally for an agency performing these kinds of services? Labor, of course, is one because generally you're paying somebody who is, in this instance, actually doing the housing counseling services, or some of their time is doing actually housing counseling services so you're prorated or they're charging some of their time if not all.

Then, there may be travel that's directly related. Maybe you're traveling to a training seminar directly related to housing counseling. Sometimes we have rent and some other expenses that we want to do a direct cost because you set up, or you're renting a specific space for your housing counseling.

So, those are direct costs, and you have to make sure that you segregated the direct costs. This is what's important, too, not just the direct cost for the housing counseling grant, but the direct costs across the board, and generally that's reflective of what services you provide. So, you have to look at my organization and say okay, generally, what costs do I incur directly for anything that we do?

If our primary service is counseling, and that's housing counselors, whether it's for HUD or for NeighborWorks, or maybe you have funding from a private foundation, and you have counselors who are performing services. Then, you say they're my direct cost associated with that grant.

Step two, once you've segregated your direct costs, then all the other costs become indirect costs, and generally your indirect costs are your facility costs and your administrative costs. These are costs, really to be existence so you can ultimately perform the services, and it's really to maintain your organization, so that's why we get into facility and general administration.

So, first you have to separate your direct costs from your indirect costs, and then from that point, and this is where you may want to consult with someone if you don't have an accounting or a financial background or understand the cost principles. You should determine how should I best try to recover or get reimbursed for indirect costs. Is it more efficient for me to use the de minimis rate?

Maybe I want because I may have some grants that there's substantial funding, and our indirect costs are substantial, I may want to try to ask to negotiate an indirect cost rate agreement, or maybe because we have a very strong accounting system, I may say you know what, I'm going to set up a methodology where every cost that I have, I'm going to determine that it's a direct cost, and based on that, I'm going to charge it to each of the grants, but as I said, in that cost allocation, which is usually done by state and local government agencies, you have a much higher standard for the reliability of your accounting and financial data to support that type of approach.

At that point, then you'll compute your actual direct costs using the method there, and that becomes what you're going to use consistently across the board. So, let's say you say I'm going to go with the 10% de minimis rate. Then, you have to use that 10% de minimis rate on all your federal awards. Note, I'm saying federal awards, not non-federal awards, but on all your federal awards, whatever approach, whatever option you elect, you have to consistently use that option until you request to change that option, and the request would either be if you're using a 10% de minimis rate, and you request a NICRA from one of your agencies, at that point that will be a request, so then you would start using that NICRA consistently for all the federal awards.

If you get an approved cost allocation plan, you would then start using that approved cost allocation plan consistently across the board. The biggest thing being whatever method or option that you're using, you have to consistently use that option until another option is available.

So, I've talked about direct costs and indirect costs, and in this slide, we just kind of give you the references if you wanted to look at the 2 CFR Part 200 but the biggest thing being the direct cost is one that is specific, identifiable, and is incurred specifically for the services or products for that grant.

I always say these are the costs that if they were to go away, you would not be able to perform that grant. So, they exist only so that you can perform that grant, which is usually the labor associated with providing the grant services.

Indirect costs generally—usually they are costs that you're incurring over multiple grants. It's not specific to one grant. For instance, you may have marketing materials, or you may have an administrative assistant who assists. She answered the phone and all those things. Her salary may not be specific to one particular grant, but her salary does provide services across multiple grants. So, that type of administrative salary would be included in your indirect cost salary.

So, that's the biggest difference between direct and indirect grants. As we said in the prior slide, though, it's very important that you know within your organization which costs are direct and which costs are indirect, and you group them within your accounting system accordingly.

So, some indirect examples of costs. You have your direct salaries. You have fringe benefits, which is an indirect cost. You have travel, training, supplies, and consultants. These are all types of costs. When these costs are reimbursed, specific documentation is maintained. So, for instance, if you have salaries, you need time sheets that support those. If you have travel, then you need expense reports and receipts to support the salary, and they can be easily identified to the program.

According to the Uniform Guidance, there are two broad categories of indirect costs. You have facilities, and you have administration. Now, often at least with this grant, sometimes when we talk about rent and the associated utilities with the rent, if in fact you can justify it and have a methodology, they do often allow you to charge rent as a direct expense, the biggest thing being that you have to be able to provide a methodology that clearly shows that this rent is identifiable to those individuals or specific to the performance of this grant. Generally, that methodology is based on square footage.

So, let’s say that you have an office space 1,000 square feet office space. In that office space, you have four employees, two of which are housing counselors, and all they do is housing counseling consistent for this grant. Well, assuming that all the office space is equal, and to keep the math easy, if I have 1,000 square feet, and I’m saying two of those individuals, each of those individuals their square footage of work is 250 square feet, then I'm saying that I have 500 square feet that I can charge directly, and I can prove through my lease agreement how much the square footage is and how much the rent is, and if someone comes in, they can clearly see that these individuals, this is where they sit. This is where they work. This is where we maintain housing counseling activities.

Then at that point, I may say to the government that I want to charge 50% of my rent expense as a direct cost. Note, that one, I have a methodology. Two, I have supporting documentation to verify that methodology if subject to review and audit. Three, I got it preapproved meaning I submitted it as a part of my budget, and HUD POD [ph] approved it prior to. It wasn't something that I added in my cost reimbursement as I'm submitting my quarterly reports for reimbursement.

The other board category, administration, which is more common, is just your general administrative expenses that are not facilities-related, facilities-related being your rent, your utilities, your equipment, things like that. Administration would be dues and subscriptions, if you have some marketing, some outreach, if you have books and periodicals that you use across the board, things like that, materials that are general administrative expenses, including administrative salaries. For instance, maybe your management who don't provide direct services on a particular grant, but they manage their organization. They would fall under your administrative salaries, a receptionist, or someone like that.

This figure kind of just gives you examples of indirect costs as it relates to administrative and as it relates to the facility. These are examples of your administrative examples, and these are examples of your facilities. So, that just gives you an idea because remember you still have to understand which type of indirect cost it is. It is administrative, or is it a facilities cost?

Some larger agencies, when they have indirect costs, they may have multiple indirect cost rates. They may have one for administration. They may have one for facilities, although for smaller organizations, if they in fact have a negotiated indirect cost rate agreement, and they have negotiated indirect rates, usually it's just one rate, and it's oftentimes called overhead, but there are larger organizations that because of their cost structure, they actually have an indirect cost rate for administrative and another one for facilities.

Direct costs, once again, and this is just to kind of give you a narrative to support the administrative, but these are other examples. Direct costs, subawards are always a direct cost. That's not optional. If you are an intermediary, you're an agency that's making subawards to some recipients, that is a direct cost without question.

Administrative costs, that's another common one, especially administrative salaries. If you have a system in place where your employees on their time sheets, for instance, you have some administrative, but they do all of the backend file support, maintaining files, maybe updating the CMS system, and things of that, and they charge their time on their time sheet clearly showing that I provided this activity for the HUD grant, then you can in fact include some of those administrative salaries.

Once again, though, that's something that you would have to include on your budget submission for preapproval by your HUD POD so that they can approve it advance. As you're submitting your quarterly reports and requests for reimbursement, it's based on an approved budget for that line item.

Just examples of some of your common, especially for this grant, indirect costs. Professional fees, rent, as I said rent could go both ways if you're able to meet the standards for being able to charge it as a direct cost. Utilities, generally, if you can charge your rent as direct cost, your utilities follow, but these are your basic indirect costs that we see with this grant.

What costs can be charged? To be chargeable to a federal contract, here's the terms: allowable, reasonable, allocable. These are not Robin's terms. These are terms from the cost principles in 2 CFR Part 200. Allowability under subpart E, you must have in place a sufficient financial management structure.

That is alluding to your accounting system, your record retention, your supporting documentation, your internal control, so you have to be able to have a system in place that if under review it's clear that these charges are allowable under the grant requirements as well as 2 CFR. It has to follow the terms and conditions of the specific federal awards, and what that means is sometimes federal awards will actually allow you to charge a cost that's otherwise unallowable, not trying to confuse you.

So, for instance, certain costs under a general term, generally it says under 2 CFR Part 200 that marketing costs aren't allowable. However, and I believe under this grant, it may allow you to have marketing and outreach costs, and to the extent that the grant allows you to have the marketing and outreach costs, then that makes it allowable. If the grant doesn't say that, if the grant doesn't make a cost that's generally unallowable or allowable, then you stick to the cost principles.

You have to determine and ensure how to properly and efficiently administer the funds. Once again, all of these principles you must be able to show that you have systems in place and controls in place to make sure you're being a good fiduciary of federal tax dollars because that's what these funds are, federal tax dollars. So, that's important under the allowability.

What makes a cost allocable? Once again, if you see these references, these are all references to 2 CFR Part 200 if you want to go look after this presentation. It has to be reasonable and necessary. One of the things we are often challenged with is determining reasonableness. That is somewhat subjective, so what the standard says is that it has to reasonable when you're taking into consideration a grant amount, costs normally incurred by other organizations or pricing or fees or rate usually incurred by other organizations.

So, some of you during the grant execution process, if we question the rates that you were charging for our housing counseling, the benchmark would have been what other organizations receiving grant amounts in your size and the work and the level of counseling they did, what rates they charged for the counselor. If the rate appeared to be excessive, then we would actually prefer the justification. This is the basis for us being able to do that, ask those questions, and suggest that it has to be reasonable.

It has to conform to limitations or exclusions. That's, once again, talking about not just an allowable—in your grant agreement, one of the things there is there's always a ceiling on consulting fees. It escalates each grant period, but that's a limitation within your grant. So, although the 2 CFR may not have a limitation, your grant has a ceiling on how much you can charge for a consultant at the hourly rate and then on an annual basis. You would have to make sure you comply with that.

It has to be consistent with your internal policies and procedures. One of the areas where the inconsistencies sometimes show up is that for federal awards, agencies may allow employees that are traveling to use the GSA per diem rate, but then on non-federal awards, they'll say no you have to use your actual receipts, and they cannot exceed GSA per diem rates. Well, if your policy and procedure says that, then you're required to comply with your policies and procedure.

What the government doesn't want to see happen is that you take advantage, or it appears as if you're burdening a government award more than others simply because there's a perception that that money is available. So, you have to understand that you have to be consistent with your own internal policies and procedures.

It has to be consistent treatment across the board. One of the areas is like salaries and administrative salaries, especially. If you're charging time for your executive assistant on this grant because you're able to show that hey, they tracked their time, and we can show that they spend five hours a week on this, then we want that consistent treatment across the board. We expect to see you charge some time to some other grants for your executive assistant.

It has to be consistent with generally accepted accounting principles, and that gets into things like fair market value. One of the things is we always talk about an arm's-length transaction. We have a related-party transaction, and some of you may have encountered where we've questioned a certain cause. For instance, if there's a consultant that's a related party to someone in the organization, or maybe you're renting space from an affiliate organization, so we question the amount of the rent to make sure that it's fair market value.

Those kinds of principles are consistent with generally accepted accounting principles. That's what GAAP is. So, that's why we may question those costs during your grant execution process, especially when approving budget.

This instance is not included as a match or car share. You all have leverage funds, but there's no match or car share requirement, and it has to be adequately documented and supported. So, once it's determined to be allowable, it must be allocable. So, first we had to say if this cost is allowable. Then, we have to say if it's allocable, meaning it may be allowable as a federal grant charge, but it may not be allocable to HUD because maybe those costs really don't provide benefit or are not direct costs associated with HUD.

So, I've alluded to what is the expressly unallowable costs, and here and once again, we're giving you the references, we identified those costs that are expressly unallowable, and this is not—I always say this is strictly from the regulations, and unless your grant agreement expressly says they are, or you can charge them for the grant, these are otherwise unallowable, so you should make sure that you're familiar with these costs. These are the specific sections of 2 CFR where you can go to get more information.

You cannot charge to federal award any cost to overcome deficiencies are restrictions imposed by any regulations or statutes. So, you can't attempt to use the federal award to circumvent any deficiencies or any other imposed restrictions by federal statutes, regs, terms, or conditions. That's also something that you'll see on the 2 CFR

There are three primary options for requesting reimbursement of indirect costs. Option one, de minimis rate, option two, negotiated indirect cost rate, and then option three, cost allocations plan. I've already discussed them—well started mentioning them in the earlier part of the presentation, and now we'll kind of go over them in more detail.

Once again, as you're making this decision, strongly recommend that you consult with someone that's knowledgeable of the various cost principles and indirect costs who can assist you in making the appropriate determination for your organization.

So, our options. We have a 10% de minimis rate. Now, the 10% de minimis rate became effective under the Uniform Guidance, and what the government has said, and it's really applicable to smaller organizations who may not have a lot of federal award. They may not have federal awards that really are material, so they're not in a position where they can go and try to get an agency to approve an indirect rate for them, but the government recognizes that you do incur indirect costs just to manage our grant, and no they're not direct costs, but they're costs that you incur to be in existence to manage the grant.

So, it's almost like they said we'll give you this 10%. You don't have to justify it. The biggest thing is that we have to make sure that you meet the eligibility criteria for it. That's what the 10% de minimis rate is. Some of you probably exercised that option during this grant execution process. I think I saw it more now, and we'll go over some of the pros and cons of each in a minute, and we'll also talk a little bit more about the 10% de minimis rate, but the biggest thing with this is in order to be eligible, you must have never had any kind of negotiated indirect cost rate agreement or cost allocation plan.

This is specifically designed for organizations that have never really been able to recoup their indirect costs because they didn't have a NICRA or they didn't have a cost allocation plan. You have to be a non-major program, so you don't have more than $35 million of federal grants, so those kinds of restrictions really show you that this is designed for those smaller organizations who the government really wants to assist in augmenting at least some of the cost.

The negotiated indirect cost rate agreement is much more detailed. It's a negotiation between your agency and whatever federal agency is awarding you the largest grant. You actually have to request this through that federal agency.

So, you would put in a request to do an indirect cost rate. They would make you do what's called an indirect cost rate proposal, which can be extensive, and once again, you definitely would need to consult or work with your accounting and financial individuals to get that right. Once those rates are negotiated, they're good or acceptable generally for two to three years, so you have to use those rates consistently for any federal award.

We often get the question or it's suggested that I have a negotiated rate with the state or local federal government agency. Unfortunately, those rates are recognize for federal awards. It's rates that are negotiated with the federal cognizant agency. So, with that in mind, you may be eligible for the 10% de minimis rate because you've never had a fairly negotiated indirect cost rate, but they can't accept your state and local rate.

A cost allocation plan is when you actually go through and take every element of your cost, and you come up with the methodology to say this is how we're going to determine how much to charge to each grant. For instance, let's say accounting. Accounting, which is generally an indirect cost, I showed you in the figure how accounting and the personnel and those salaries are generally indirect costs, even if you outsource it, but you want to recoup it as a direct cost.

You would then have to be able to take, if for salaries, you would have to have a timekeeping system where the individual would be able to show the number of hours or the time that they're charging to each grant to perform their accounting. You would then have to be able to convert those hours into dollars, and based on those dollars, say this is how much each grant's charged.

So, literally, your methodology would have to show how you're charging each element of cost to a grant. That's why you have to have such a strong accounting system because everything would be based on your ability to pull data to support how you came up with the amount that you're charging to each grant.

So, if it's supplies and materials, you would have to have a good purchasing process where every time a purchase is made, it's charged to a particular grant. Even as small as if you have a printer, a lot of people they make sure in the printer you have codes so that you can charge to each grant. Those kinds of systems have to be in place for a cost allocation plan. So, generally, we don't see those with the small—LHCAs [ph] or small intermediaries. We do see them with SHFAs [ph] and MSOs because they generally have the types of accounting structure that can support this type of cost allocation plan.

All state and local government agencies are required to have cost allocation plans. That's how they recoup their costs, but that would be an option.

Some of the pros and cons. Ten percent de minimis rate allows eligible recipients and a subrecipient that historically you couldn't get any direct costs, now you can recover costs. You do not have to submit every three years or on an annual basis any kind of indirect cost proposal. Pretty much, the government says we're giving this to you. You're immediately eligible. There's no phase-in or time delays or grandfather clause. There's no negotiations. Simply if you meet the eligibility criteria, you can start charging the rate now.

I will say this, and you all saw this in your grant execution process. You do have to certify to the eligibility requirement, so internally, you've done hat you're supposed to do to determine if you're eligible, so it is a self-certification, but remember under review, you have to be able to verify that self-certification.

So, let's say that you certify that you have never had a negotiated indirect cost rate agreement, and an auditor or someone comes and does a financial and administrative review, and during that process, we determine that you have had a negotiated indirect cost rate agreement. Maybe it's old, and you haven't used it for years, so you didn't renegotiate it so it expired or was terminated. Doesn't matter. The requirement for 10% de minimis is that you would have never had a federal negotiated indirect cost agreement.

So, then at that point, we would say that you falsely self-certified, and all of the indirect costs that you charge on the grant under that 10% would then become unallowable, so at that point you could be required to recash [ph]. That's an extreme worst-case scenario. I only say that to you to make sure that when you do those self-certifications internally you've done the type of review to make sure that you're accurately self-certifying.

Another pro of this 10% is that you don't need the in-depth knowledge of accounting and a complicated accounting system. It's pretty straightforward.

Here's some of the cons. One, you have to meet the requirement. Two, it's limited to 10%. So, if your agency is growing, and you're getting more office space and all of these things, it may be to your advantage to try to negotiate an indirect cost rate agreement if you're pursuing a lot of federal government grants because it is limited to just that 10%.

Certain eligibility activities are unallowable for computation, so even in determining a 10%, you don't have as much flexibility on what you're including in what's called your MTDC or your modified total direct cost base, which you use to compute that 10%. So, certain costs you won't be able to apply that 10% again.

Let's say my total budget is $50,000, and there's certain elements of cost that I can include. I can't take the 10% of $50,000, which is $5,000 because maybe $10,000 of it is what is considered excludable because it doesn't meet the criteria. Then, I can only take $40,000. So, I can only get 10% of $40,000. So, unlike a negotiated indirect cost rate agreement, you can negotiate every element of cost, you simply don't have that flexibility with the 10% because certain things you can't charge that 10% to.

Then, you still have to track your salaries and fringes and service contracts and consultants separately, so you still have to segregate your direct and your indirect costs because when you choose that 10%, you're only supposed to multiply it times what's called your modifies total direct costs. So, if you're not separating your direct costs from your indirect costs, you could still be mathematically incorrect in the computation of the 10% because maybe you should have been multiplying 10% times $40,000, not $50,000. Therein lies some of your inflexibility as it relates to what you're using to determine the 10%.

Negotiated cost rate agreement. It usually does allow you to charge more for indirect costs. Usually, very rarely do you have a NICRA where their rates are 10% or less. So, generally, you are recovering and recouping more of your indirect costs. Every federal agency must accept it. They have to allow you to use that negotiated rate as long as it's with a federal cognizant agency, and you can get an increase.

I use the scenario of as you're growing, you can go back and renegotiate it to get an approved update, so you can renegotiate to get more. Some of your cons, you have to be able to do this indirect cost plan or indirect cost proposal, which as I've said, you need the kind of experience and knowledge to be able to prepare an acceptable indirect cost plan. You have to find a federal agency that's willing to negotiate with you.

A lot of times, there is a backlog. I know within HUD there's a backlog of requests for negotiated indirect cost rate agreements because it requires the agency to then use their internal resources to review these proposals, the indirect cost proposals. There's a lot of documentation that you're required to submit, and then there's the ongoing negotiations. So, identifying an agency that will actually—and you have to have an award from that agency, and getting them to negotiate, to proceed with the negotiation in a reasonable time period becomes challenging.

You have to review that agreement, and it usually takes an extended amount of time to even get through that whole negotiation and agreement process. You have to have not just a strong accounting system, but you have to have experience and knowledge of personnel, and then every three years you have to renegotiate that agreement. So, those are some of the cons of the NICRA.

Now, with the cost allocation plan, as you can see the pros get less and less and less. Some of the pros are you're probably recovering more of your cost, so element of cost you're recovering one way or another, so that ensures that all of your cost and charges are paid for by a federal grant to the extent that it's a federal award and that you're getting the actual cost for each program grant. So, you're getting every cost you could possibly get from each grant.

The cons. State and local government and the Indian tribes that receive over $35 million of award, they have to do this. They don't have a choice. You have to submit this cost allocation plan and cost policy, which can be very complex. It usually requires you to provide substantial documentation, especially because they have to approve these methodologies, so you're looking at usually a lengthy process for the negotiations.

You have to have a strong accounting system, very knowledgeable personnel, and it is a time-consuming process. So, this isn't going to happen overnight. You can be in negotiations for a cost allocation plan for a year, especially if it's your first plan.

So, those are some of the pros and cons of your options. So, for option one, that 10% de minimis rate is usually, as I said, for smaller recipients, a subrecipient organization. If there are any subrecipients on the webinar, you are allowed to request a 10% de minimis rate if you meet the criteria.

Parent or intermediary parent organizations cannot tell you that you can't take the 10% de minimis rate. They have to allow it. What you can't do though is you cannot attempt to charge your parent agency's rate. If your parent agency has a negotiated indirect cost rate, you can't use their rate just because you're the subrecipient.

You have to have your own negotiated indirect cost rate or elect the 10% de minimis rate, or you have a cost allocation plan. You can't leverage what your parent organization has. So, that may be the best option for you if, in fact, you meet the criteria, maybe the 10% de minimis rate.

The criteria, and I've said this to you, you've never received a negotiated indirect cost rate, it must be used indefinitely until you get some kind of negotiated rate, and that you have to comply with the cost composition of the modified total direct cost. So, if you meet all of those criteria, you can use that 10% de minimis rate, but you have to consistently use it.

Just a continuation of criteria. As I said, if you receive over $35 million, you're not eligible, and you still have to have documentation supporting your methodology. So, you still have to have whatever documentation to support your salaries, to support any other costs especially from your direct and indirect costs. You still need that supporting documentation.

The modified total direct cost, MTDC. This is, as I said, today I'm trying to get you a broad understanding of what your options and the difference between the rates, but when you're actually using the rates to determine your indirect costs, and what I mean is when you're trying to say how do I convert this 10%, what does that mean in dollars based on the award, under 2 CFR, there's only certain direct costs that you can charge it to because you have to remember with any of these rates, these indirect rates when you multiply the rates, you multiply the rates times some amount of direct cost, and that's where we'll go over an example in a minute, but all costs must be identified specifically to a particular sponsor program.

So, you have to have know what your direct costs are, and they have to meet all of those criteria for being allowable, allocable. Those things still are very important to determining your direct costs. These are the costs you can include in this modified total direct rate cost.

Now, with the NICRA, you could have a lot of different costs. You can negotiate which costs you can include, so when you determine what your rate is, you can multiply that rate times those costs. With the 10%, it's limited. You can only do it by these costs, direct salaries and wages, fringe benefits, materials, supplies, services, travel, and for subawards and subcontracts, up to the first $25,000 for each subaward or subcontract.

So, you know if you have equipment, no, you have to take those dollars out. You can't apply that 10% to that. If you have—I'm trying to think of some others. Equipment comes up a lot. If you have capital costs or capital expenditures, no, you can't include them in a modified total direct cost. If you have unallowable costs in there, no, you can't include it.

So, let's say your budget, let's use $50,000 included $10,000 for equipment. Because that's not a cost that you can include in the modified total direct cost, to compute your indirect cost using 10% de minimis rate, you would take 10% times $40,000, not 10% times $50,000.

So, as you can see, there's a $1,000 difference in that, and that's why still, even using the 10%, you have to have your documentation and support because we're going to look at what you included in your direct costs to make sure it still meets the principles. So, you still have to be allowable. It still has to be necessary and reasonable, all of those things cost principles.

What you cannot include in your MTDC, equipment, I said that, and capital expenditure. This gives you further definition of what those items look like. What you also cannot include is you can't include any amount over the first $25,000 for a subaward. So, if you have five subawards, and each of them are over $25,000, you can include $25,000 for each one, and then you have to exclude the amount over. We'll show you that in an example.

Other costs to exclude: your rental cars, scholarships and fellowships, and participant support costs. You cannot include them when you're computing. So, even if HUD allows you to include rent as a direct cost, once you do that, to compute the indirect cost, you would still have to exclude that when you're multiplying that 10%. You would have t o deduct whatever rent was included, and then determine what your indirect costs are.

This table just kind of summarizes what's included and what's excluded. So, this is good for you to refer back to in looking at those. This just, once again, what costs are in the MTDC, and it gives you more detail. This is specific from the 2 CFR about your direct salaries and what that is by definition. Then, your direct administrative and clerical that had met the requirements of eligibility to be considered direct consistent with 2 CFR Part 200.413.

Your applicable fringe benefits. So, when you complete any of the fringe benefits applicable for those direct salaries, they can be included. So, if the agency does not have a fixed fringe rate, the actual charges for the below, so this really gets into what your fringe benefit costs look like. Fringe benefits alone can be a separate training, but you know, your normal fringe benefits: your compensated leave, paid tuition, employer-paid taxes, health benefits, things of that nature.

Service contracts and consultant fees are allowable when reasonable, so they can be included in your MTDC, your materials and supplies. Now, that salary limitation that I talked to you about that's in your grant agreement, they can be included, but any amount above that well, one it's not going to be allowable, but it would not be included in your MTDC, travel costs and then once again, the subaward.

So, let's look at an example. In this example, we have a subtotal of direct costs of $285,000. When we look at these costs, we have salaries, we have fringe benefits, we have travel, we have supplies and equipment, and then we have amounts for each subaward. When we're going to compute, we're going to go back, and this is tough because I wish I had a dual screen.

We're going to go back to the budget one, and when we do the actual computation to determine the modified cost, certain costs we had to exclude. We had to exclude $20,000 in equipment from that $285,000. We had to include those subawards that were in excess. We had three subawards. You see one of them was $50,000 in excess of $25,000. The other fell within, so we had to exclude the $50,000 for that one subaward that was $75,000. We could only take the first $25,000.

So, then what that did was give us now a modified total direct cost base of $215,000. So, the error would have been if you'd have multiplied the 10% times $285,000 because you failed to exclude these costs. Then you would have been overcharging or improper charge to the government for the difference between the $285,000 and what you should have charged, which was $215,000.

So, the actual indirect cost using a 10% de minimis rate is $21,500. If you had erroneously used the $285,000, you would have computed $28,500, and you would have overcharged the government $7,000. That is why it's important for you to understand which costs cannot be included in the modified total direct cost.

So, these are just some of the assumptions because you notice we did include equipment. Now, the regulation says that if it has a short life, you can include it. So, if it has a life of less than a year, you can include it as long as it doesn't exceed $5,000. If it has a long life and exceeds $5,000, you can include it. So, once again, you have to know the rules. The awards that were over $25,000, we had that one subaward that was

$75,000, well we could only take the first $25,000, so we had to exclude the $50,000.

Notice, and I'm going to jump back forward there, notice we did not say this award was $20,000, so we didn't give them $25,000, so we'll use that $25,000 to offset this $75,000. No, you don't. It's per award. So, you have to apply that principal of $25,000 per award.

The consultant fees were over the annual amount. So, this is the second scenario for budget two where we looked at salaries. We had fringe benefits, we had travel, we had equipment. As you can see, that's the short life one. That's the long life one. We have these subawards, supplies, and then capital outlay, and annual consultant fee. So, based on that, we took the equipment, we did not take the equipment over a year, and it exceeds the $5,000. We excluded the award over $25,000. We excluded the amount that exceeded the consultant fee for that year, which was $133,044 [ph].

So, what happened is although the budget is for $949,000, you still get that $949,000. It's just that when we're trying to determine how much you can get for the indirect costs, we have to subtract all of these items out. So, instead of, once again, being 10% of $949,000, it's 10% of $725,000. That's a $20,000-plus difference or error that you'll have if you don't understand what can be included in the direct and indirect rates.

With the negotiated rate, which is pure negotiation, they give you a percentage. You come up with the rate, and you allocate it to each grant. Those negotiations tend to be extensive where you really go through all our element of costs and you're negotiating them with whatever federal agency has given you the largest federal award, and if you can get them to do it in a timely fashion.

So, if you have a NICRA, what you want to do is you want to verify your indirect cost rate. Make sure you know your effective dates on those NIRCAs. Sometimes we get NICRAs that are terminated or they're pending. If the government is taking a while to negotiate, then ask them to give you an extension on your existing rate or to give you something in writing to say that we're in the process of negotiating the rate.

If you are still going through negotiation meaning that maybe the rate is three years, so now you've submitted your plan, you're waiting for the government to tell you if they approve your new indirect rate based on your new plan, I always say to err on the side of caution and use whatever your lower rates are.

So, let's say you have existing rates that have really expired. You're waiting for the government to approve your new indirect cost plan with your new rates, and those rates are really going to be lower than what your old rates are. Well, use your lower rates because then in a worst-case scenario, if you're using those lower rates on grants, you can always go back and say hey, I should have used the higher rates. What you don't want to do is be in a situation where you used the higher rates and you have to go back to the government and then owe them the difference because you should have be charging a lower rate.

Just different types of rates, and these are on your letters, too. You'll see that provisional rate meaning it's temporary, or sometimes you'll see final rates, and that usually means that it's been somehow audited, and then your predetermined, and your fixed and carry forward rates. So, if you have a NICRA, make sure you understand the difference between the rates because they mean different things depending on which rate is included in the NICRA.

Always verify your rate effective date. We'll get a NICRA agreement, and we'll be the ones to tell the agency, oh this NICRA has expired, or you should have been using this rate because that was a provisional rate, and based on your NICRA agreement, you should have been using these final rates for these dates. So, you really need to make sure you understand your effective dates.

You need to understand, too, which costs you can charge, what you can multiply that rate by. Just like for the 10% de minimis rate where we looked at your modified total direct cost, and we were like this is what you can apply that rate against, well in a NICRA, it tells you which direct costs you can apply it to. It will say salaries and fringes or whatever, so you have to make sure when you're computing your indirect costs, you're only charging it to those, what we call the base, to those costs, and it tells you in your actual agreement. We still have the error where people don't, based on their own agreements, they don't charge the correct amount.

Some of the most common, just like modified salaries, you can usually multiply your rates by salaries, by your fringe benefits, so it's kind of similar even with NICRA unless larger agencies can have more complex ones, but generally it's those same bases.

Then, once you make sure you know your rate, you have the right rate for the right period, you have the right base, and then you simply multiply it similar to what we did in the indirect to get your rate.

Cost allocation plan, this document explains the distribution of every cost. You're distributing every direct and indirect cost to a specific grant. Once again, states and local agencies are required. You have multiple methods. You have a simplified method where because you don't have a lot of federal awards, it's only like a single method, you have multiple allocations. I think where you have various, a lot of costs, so you're allocating multiple costs to the cost allocation plan, which is usually what federal and state agencies do.

Like an MSO, you probably have a simple allocation versus somebody like a state government agency, they're going to have a lot more complicated. It's going to be a lot more different types of indirect costs grouped together, so it tends to be a lot more involved, and/or you can have a direct allocation, which is the preferred method used by the majority of the nonprofits where you're actually saying you know what, I'm just going to take every line item, and I'm going to determine how I can charge that directly under this cost allocation plan.

Federal agencies, your subrecipients, you are eligible. If you have a NICRA, if you have a de minimis, you can charge those rates. Your parent agency cannot tell you that you can't charge indirect costs if in fact you either meet the criteria for 10% de minimis rate, or you have a NICRA cost allocation plan.

[Indiscernible] that are able to allocate and charge 100% of their costs directly may do so. You can do a cost allocation plan. Nobody can tell you can't, but just understand the standards you'll have to meet if subject to review or audit and in negotiations. A NICRA must be used if the subrecipient already has it. If you have a NICRA, you have to use your NICRA. You can't use that 10% de minimis rate.

Pass-through entities cannot force you or entice you to not use your rate. You can charge indirect costs. We've already seen that to be an issue with communications between some of the parents and the subs.

As far as retention of records, if the indirect cost rate proposal, the plan, or computation is not required to be submitted to the federal government for negotiations, then you have to make sure that you have those records for three years.

So, what does that mean? With that 10% de minimis rate, when we looked at the salaries and all of those things that we were multiplying that 10% against, you have to have the supporting documentation for those costs, for those salaries, for those subawards. So, you still have to have your supporting documentation because if you recall, we multiplied that 10% by those costs, so you still have to justify the cost. You don't have to justify the 10%, but you have to justify the cost that you multiplied that 10% by to get it.

The same holds true for the NICRAs and any of your cost allocation plans. This is specifically speaking to if you didn't do a negotiation. If you've done a negotiation, then you have to maintain it for a longer period of time.

I know that was a lot of material. I know, as I said, this was to give you broad understanding, and we do a follow-up to this. We just go over more examples and examples, but it's important, and hopefully you've gotten a broader, general understanding of the various options and the emphasis that if in fact, when you're making this decision, we strongly encourage you to consult with professionals that are knowledgeable and to take into consideration your organization to make sure it's something you all can do.

I did not take questions because I realized from a time perspective that we had a lot of material to cover.

Delbert, Petergay, were there any questions in the queue or any questions in the chat that I need to respond to?

W No unanswered questions.

Robin Okay. I will ask the moderator, are there any questions in the queue, live question?

Moderator [Operator instructions]. No questions at this time, Ms. Booth.

Robin Okay. So, if you have questions subsequent to this presentation, please send them to housing.counseling@hud.gov. If you include if not that whole title, at least the first part of the title, Understanding Indirect Cost Rates, in your subject line, it will just make it easier for them to distribute the questions to the appropriate individual.

With that said, I thank you all for your participation. Please remember to complete the survey that you should receive immediately following this. This entire webinar including the handouts and the audio will be available on HUD Exchange within about two business days.

Thank you for your time.

Moderator Ladies and gentlemen, that does conclude your conference for today. Thank you for your participation and for using AT&T Executive TeleConference Service. You may now disconnect.