Maximizing Understanding of the New De Minimis Rate

Part 2

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CAPLAW Webinar

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De Minimis Rate Questions and Challenges

- Testing the de minimis rate for your CAA
- Transitioning to the de minimis rate
- De minimis rate implementation challenges
- Excluded costs for the MTDC Base
- Dealing with Administrative Cost Caps
- Questions

4 ways to Recover Admin & Indirect Costs

Uniform Grants Guidance

	Indirect Cost Rates		
Direct Charge Allocated Costs 2 CFR 200.405 (d)	**Use de minimis rate***	**Federal NICR**	**Pass-through NICR**

All 4 methods require distinguishing costs directly attributable to a specific cost objective from costs that benefit more than one cost objective

*** De Minimis rate is 10% until 10/1/24 when it becomes 15% of Modified Total Direct Costs**

Big Choice. . .

How will your CAA Charge Agency-wide Admin & Shared Costs to Federal Awards?

- **Indirect Cost Rate**
  - Use **2 CFR Part 200, Appendix IV** specific provisions for determining an indirect cost rate to recover agency-wide administrative costs
  - May include other shared costs in indirect rate calculation or use cost allocation methods to allocate these costs
  - Recover these costs through charging them as **Indirect Costs**
  - This approach **includes use of de minimis rate**

- **Direct Charge agency-wide administration and other shared costs**
  - Create written cost allocation plan justifying allocation methods
  - Apply allowable allocation method to distribute agency-wide administration and other share costs to cost objectives
  - Recover allocated costs by charging them as **Direct Costs**

Testing the De Minimis Rate for Your CAA

- **Identify any direct cost items that must be excluded from MTDC**
- **Review your definition of agency-wide and direct administrative costs**
- **Identify any statutory Admin caps**
- **Calculate your indirect cost rate using the MTDC base**
- **Determine whether you can recover all your agency-wide admin costs through the de minimis rate**

Participant Question 1

Consistency in Charging De Minimis Rate

- ***If we charge the full 15% to some of our awards, do we have to actually charge 15% to all of our awards?***

- **You must be consistent in charging all cost centers at the same rate (15% in your example).**

- **If you decide you don't want to use funds from a specific award to cover the full 15% indirect, you can request reimbursement for indirect at a lower rate use unrestricted funds to cover a portion of the indirect you are not asking that award to cover.**

- **May be simpler to use unrestricted funds to cover direct costs for that award and request indirect reimbursement at the full 15%**

Participant Question 2:

Identifying Indirect Costs

- ***The controller keeps time records that show the amount of time spent working on specific awards which total 75% of his time. We charge that portion of his cost to the specific awards as a direct cost based on the time records.***
- ***Can we treat the remaining 25% of his time as indirect cost and recover it through charging the de minimis rate to all our cost centers?***
- **Yes**

Participant Question 3

Charging Indirect on Fund Raising Costs

- ***Do we need to charge indirect costs on fundraising expenses?***
- **Most federal awards do not treat fundraising expenses as allowable. However, you must establish a cost center for fund raising expenses and must charge indirect costs to each cost center.**
- **Yes - you must charge indirect costs to the fundraising expense cost center. Use unrestricted funds to cover these indirect costs for fund raising expenses that are not allowable on your awards. Fund raising costs that are allowable expenses will be charged to the appropriate cost center which will be charged indirect.**

MTDC Direct Cost Base excludes:

- Equipment & capital expenditures
- Rental costs
- Participant support costs
- Charges for patient care
- Tuition remission

- Portion of each sub-award in excess of $25,000* raised to $50,000 in 2024 Revised UG
- Other costs that would distort distribution of indirect costs

Excluded Costs ??

- Other costs that would distort the distribution of indirect costs may include direct client assistance payments
- The indirect cost rate may not be charged on the excluded costs
- This type of exclusion will reduce the amount of indirect that can be recovered through an award
- Different federal agencies may have different requirements for the types of costs which must be excluded
- Follow the rules of each award to determine which direct costs you may apply the indirect cost rate to

Participant Question 4

MTDC Base Exclusions

- ***We purchased a bus for $200,000 from one of our awards. We understand that we must exclude that $200,000 from the MTDC base for that award.***
- ***Do we still need to charge the 10% indirect rate to the $200,000 bus purchase?***
- **No - You only charge the indirect cost rate to the expenses that are included in the MTDC base. The bus was excluded, so no indirect cost can be charged to it.**

Participant Question 5

MTDC Base Exclusions

- ***If equipment is excluded from the MTDC base in the year of purchase, in subsequent years can depreciation expense on the equipment be included in the MTDC base?***

- **If the equipment was purchased with federal $$, depreciation on that item cannot be charged to a federal award, so it would not be included in the MTDC base for the award cost center.**

- **However, if your CAA records depreciation on equipment purchased with federal $$ to comply with GAAP, and funds the depreciation expense with unrestricted $$, the depreciation could be included in the MTDC of the unrestricted cost center**

Participant Question 6

MTDC Base Exclusions

- ***Are direct benefit payments for clients – like energy assistance or rental assistance- excluded from the MTDC base?***

- **Some CAAs include energy and other types of direct assistance in the MTDC base, while others exclude them. If you exclude direct assistance from the base, you cannot charge indirect on the cost.**

Transitioning to Use the De Minimis Rate

- **Best to make the transition at the beginning of your fiscal year**
- **If you have a provisional federally negotiated indirect cost rate (NICR) and decide to transition to de minimis, you will still need to report your costs and seek a final rate from your cognizant agency for the year in which you used the NICR.**

Charging a de Minimis Rate less than 15%

- You may change the actual indirect rate you charge using the de minimis rate provisions
- For example, you may decide to stop charging the full 15% and charge only 12% if that is sufficient to recover your indirect costs

Key Steps

- **Calculate your actual indirect cost rate using the Modified Total Direct Cost Base**
- **If your actual rate is greater than the maximum allowed for the de minimis rate**
  - Consider **removing common costs other than agency-wide admin from your indirect rate cost pool** and using cost allocation to direct charge them
  - Accept that you will **need unrestricted funds to cover the indirect costs which exceed the de minimis rate**

Participant Question 7

Transitioning to using the De Minimis Rate

- ***Our federal NICR rate is 6% - and we want to switch to the DM rate. Do we need to use 15% as our de minimis rate OR can we keep a 6% rate but the rate type becomes the DM rate type?***
- **You can choose to use the de minimis rate provisions but claim a rate lower than 15% - for example 6%.**
- **This might be a time-saving strategy since you will avoid the process of requesting provisional and final rate determinations.**
- **Just be sure that the 6% will cover your actual indirect costs**

Participant Question 8

Transitioning to the De Minimis Rate

- ***If you use the 10% de minimis now and are on a July-June fiscal year, can you still change to the 15% rate in October or should you wait until Jul 25 to use the 15%?***

- **The revised de minimis rate is definitely available for awards beginning October 1, 2024. Probably not available for grants beginning before 10/1/24**
- **If you decide to transition to 15% for awards beginning after 10/1/24, you'll need to do your annual budget in two segments to reflect the two different indirect rates**
- **Probably simpler to wait to implement until July 1, 2025**

Participant Question 9

Transitioning to the De Minimis Rate

- ***Our agency has a Negotiated Indirect Cost Rate (NICR) agreement with an indirect rate less than 15%. Despite having the rate agreement, can we still charge de minimis of 15% to federal contracts?***
- **You cannot use the de minimis rate until you complete the period provided in your NICR or formally terminate your indirect cost rate with your cognizant agency.**
- **It may be considerable simpler to finish the current year of your rate agreement, then terminate it and being using the de minimis rate.**
- **Think carefully about whether you want to use the full 15% - be sure you have included all of your agency-wide administrative costs in the indirect cost pool you consider the de minimis rate to be covering.**

Plan Your Transition to the De Minimis Rate

- **Monitor HHS decision regarding adopting 2024 Revisions to UGG**
- **Prepare your 24/25 agency-wide budget to reflect planned use of de minimis rate**
- **Determine transition timing strategy-**
  - Wait until you can use revised de minimis rate for your entire fiscal year – for example, implement for calendar year 2025, **or**
  - Develop budget in two segments, showing current method of charging agency-wide admin costs through 9/30/24, and use of de minimis rate after October 1, 2024

A Few More
De Minimis Rate Challenges

- **Impact of Administrative Cost caps**
- **Impact of having indirect costs which exceed the de minimis maximum rate**

Admin Cost Caps

- Specific federal programs may impose statutory caps on administrative costs
- Caps generally placed on administrative not Indirect costs
- Check regs to clarify base to use to compute the admin cap – the cap may apply to all direct costs, not MTDC
- Admin caps typically combine allocated and direct admin costs
- 10% Admin Cap computed on total direct costs may result in higher number than 10% of Modified Total Direct Cost
- Negotiated Indirect Cost Rate may include shared costs that are not administrative

Impact of 5% Admin Cost Limitation

TOTAL Expenses	Unallow Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs	MTDC	Award 1 MTDC	Award 2 MTDC	Award 3 MTDC	Unrestricted Sources MTDC
4,450,000	10,000	40,000	400,000	4,000,000	1 million	2.1 million	700,000	200,000
Indirect Rate 10%				400,000	100,000	210,000	70,000	20,000
5% Admin Limitation					-50,000			50,000
Excluded Costs							40,000	
Unallow Indirect								10,000
Total Costs					1,050,00 0	2,310,00 0	810,000	280,000

Steps to Deal with Admin Caps

1. If you use Direct Charging method, use fair allocation methods described in your Cost Allocation Plan to allocate Agency-wide admin costs to all cost objectives – both those with Admin Caps and those without

2. If you use de minimis rate, apply it to all cost objectives

3. If you have a NICR, apply it to all cost objectives

4. Look for direct Admin costs that are charged to specific cost objectives

Steps to Deal with Admin Caps - continued

5. Add Direct Admin Costs to Allocated Agency-wide Admin costs or indirect cost rate charged to each cost objective to compute total Admin cost

6. Identify all funding sources with statutory Admin Caps

7. Determine which funders will be prevented from reimbursing your total Admin costs by statutory Admin Cap

8. Identify unrestricted funds to cover the gap between actual Total Admin Costs and amounts reimbursed by funders with statutory Admin caps

Participant Question 10

Administrative Cost Caps

- ***Federal Head Start awards set a cap of 15% for all admin costs, which includes direct admin (HS director). I hear you saying that not all indirect costs are considered admin and not all admin is considered indirect. So, the 15% max admin cap would be a different calculation from the indirect cost rate. Is that correct?***
- **Yes - The Head Start 15% admin cost cap is calculated on total direct costs in the award, not on the MTDC base used for the indirect cost rate. Calculate 15% of the total direct costs in the award and compare the results to the combined total of direct admin and the 15% indirect cost rate charged to the award.**
- **If you have excluded substantial amounts from the MTDC base for Head Start, you may find that you can claim both the de minimis indirect rate and the direct admin costs**

Actual MTDC Indirect Rate Greater than 15%

Total Expenses	Unallow Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs	MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC
4,450,000	10,000	40,000	700,000	3,700,000	973,000	1,850,000	682,000	195,000

Indirect	700,000
MDTC	3,700,000
Indirect Rate	0.189

Impact of Using 15% De Minimis Rate When Actual MTDC Rate is 18.9%

TOTAL Expenses	Unallow Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs	Total MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Cost
4,450,000	10,000	40,000	700,000	3,700,000	973,000	1,850,000	682,000	195,000
De Minimis Rate 15%			-555,000	555,000	145,950	277,500	102,300	29,250
Indirect Costs Above 15%			-145,000					145,000
Excluded Costs		-40,000					40,000	
Unallow Indirect Costs	-10,000							10,000
Total Costs	0	0	0		1,118,950	2,127,500	824,300	379,250

Impact of Indirect Costs exceeding De Minimis Maximum Rates

- **You will not be able to charge your awards for the full cost of your indirect costs**
- **You will need unrestricted funds to cover the portion of the indirect costs that cannot be charged to federal awards**
- **If you have a direct federal award, consider negotiating an indirect cost rate**
- **If you cannot negotiate a NICR, consider using direct charging**

Monitoring
Your Use of the De Minimis Rate

- **Calculate your actual indirect costs by computing what % of your MDTC your actual indirect costs comprise**

- **If your actual indirect rate is higher than the de minimis maximum rate, review the costs being charged to your indirect cost center**

- **If your actual indirect cost rate is significantly lower than the de minimis rate you are charging, consider reducing the rate you charge to make more $$ available for direct costs**

Participant Question 11

Issues with Pass-through Entities

- ***Can a pass-through entity dictate that a subrecipient not treat an expense such as the ED Salary as partially direct but instead require that it be 100% direct cost?***

- **That requirement would not be supported by the UG – but you may not be able to persuade the pass-through of this – I would suggest calling CAPLAW to see if the funder could be moved by a legal analysis of the requirements of the UG**

Participant Question 12

Issues with Pass-through Entities

- ***We have a funder passing through federal funds that tells us we have to submit the backup costs info for either a NICRA or using the De Minimis rate. Is this allowable?***

- **That is not a requirement of the UGG but pass-throughs are permitted to add requirements into their agreements.**
- **It would be contrary to the UGG if the funder refused to honor either a NICRA or the De Minimis rate based on the back-up info you submitted.**
- **This is an area in which I think advocacy may be the answer, either help from CAPLAW or from your state association**

More Questions?