

Maximizing Understanding of the New De Minimis Rate

August 6, 2024

CAPLAW Webinar

Discussion Leader: Kay Sohl



Workshop Plan

- **Quick Update – 2024 UGG Revisions**
- **Cost Allocation Basics**
- **Cost Objective Options**
- **Defining Administrative Costs**
- **4 Ways to Charge Agency-wide Admin & Other Shared Costs to Federal Awards**
- **Indirect Cost Rate Basics**
- **De Minimis Rate**
- **Evaluating the pros & cons of the de minimis rate for your CAA**
- **Next Steps**

Workshop Goal

Before



After



Uniform Grants Guidance

- Uniform Guidance first took effect December 26, 2014
 - Replaced OMB Circulars A-87, A-122, and A-133
- Goal: provide **consistent guidance** for management of federal funds provided through **all federal agencies**
- Codified in the Code of Federal Regulations: 2 CFR Part 200
- Significant revisions issued **August 13, 2020**
- **2024 OMB Uniform Guidance Revisions – Effective 10/1/24**
- <https://www.cfo.gov/resources/uniform-guidance/>

Key 2024 Cost Recovery Changes

- **Increase** de minimis rate from **10%** to **15%**
- **Allow any recipient or sub-recipient** to elect to **use the de minimis rate**
- **Clarify rules for defining direct costs**
- **Increase sub-award costs included in MTDC base** from **\$25,000** to **\$50,000**

Watch For . . .

- **October 1, 2024**: effective date for the 2024 Revised Uniform Guidance
- **Watch for**: Confirmation that **HHS will fully adopt the 2024 revised Uniform Guidance**
- **Currently HHS relies on its own version of UG 45 CFR Part 75** which creates conflicts for CSBG recipients

Cost Allowability & Allocability

Cost Allowability

Subpart E: Cost Principles

Only allowable costs may be charged to federal awards. To be allowable must have:

- Evidence **cost was incurred** and/or the work was done
- Evidence purchase was **necessary** and **reasonable**
- Expense **not prohibited**
- Ability to **associate** the cost **with award objective**

Biggest *Allowability* Challenge

Allocability

- Not all costs can be **directly associated** with a specific **cost objective** – cost center
- **Cost objective** may be defined as **programs, projects, or funding awards**
- Some costs **benefit more than one cost center** or all cost centers
- Costs which benefit multiple cost centers must be **allocated to all cost centers benefited**
- **Allocation methods** must be **reasonable** and **cost effective**
- **Allocation methods** must be **applied consistently**

Allocability

Rules for Charging Costs Benefiting More Than 1 Cost Objective

- Costs that benefit **more than one** cost objective must be **fairly allocated** to all cost objectives that benefit
- Organization may define **Cost Objective** as a **program**, a **project**, a **function**, or an **award**
- Must use **consistent** definition of cost objectives

Types of Costs

Direct

Readily Identifiable

Directly assignable to federal grant activity relatively easily and w/high degree of accuracy

Indirect/Shared

Incurred for common or joint purpose

Benefits more than one cost objective

Not readily assignable to cost objective specifically benefitted, without effort disproportionate to results achieved

Shared or Common Costs

- Costs which **benefit multiple cost objectives** – programs, functions, awards
- Includes but not limited to **Administrative** costs
- Impossible to track the exact benefit to each program or function – **benefit must be estimated**

Admin or Management Costs

- May be recovered either through **direct charging** through **cost allocation** or as part of **indirect cost rate**
- **Core Admin/Management Functions:**
 - Executive Oversight
 - Board Support
 - Financial Management
 - HR Management IT Management

Administrative Costs Include

- **Personnel** performing admin functions
- Allocated share of **employer paid taxes and fringe benefits**
- **Allocated facilities, supplies, and other costs necessary for staff to perform admin functions**
- **Professional services** associated with administrative functions

Admin costs not identical to indirect costs



- Admin costs can be **direct** or **indirect**:
- Administrative functions that benefit **only one** or a **limited number** of **programs/awards** may be treated as **Direct Costs**
- Example of direct admin cost:
 - Accountant performing only Head Start functions

Cost Recovery Options

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**

Using Either an Indirect Cost Rate or Direct Charging Agency-wide Admin Costs Requires..

- **Establishing your Cost Objective/Cost Center structure**
- **Identifying your agency-wide admin costs**
- **Adopting & certifying your Cost Allocation Plan**

Cost Objective

§200.28

Cost objective means a **program, function, activity, award, organizational subdivision, contract, or work unit** for which cost data are desired and for which provision is made to accumulate and measure the cost... A cost objective may be a major function of the Grantee, a particular **service or project**, [or] a **Federal award**

Functional Cost Objective Format

	Total	Manage	Fund raising	Energy Services	Emergency Services	Early Childhood
Personnel						
Prof. Services						
Occupancy						
XXXXX						
Total Expenses						

Funding Agreement Cost Objective Format

	Total	Award 1	Award 2	Award 3	Award 4	Unrestricted
Personnel						
Prof. Services						
Occupancy						
Allocated Admin						
Total Expenses						

Cost Allocation Plan Required to Charge Admin or Common Costs to Federal Awards

- **Must demonstrate how CAA determined the amount of agency-wide admin cost or other shared costs charged to each funding award**
- **Must be formally adopted by the CAA**
- **Must reflect the allocation methods actually used**
- **Cost Allocation Plan Essential for:**
 - **Direct charging allocated costs**
 - **Using the de minimis rate**
 - **Negotiating an indirect cost rate**

Cost Recovery Using Direct Cost Allocation Principles

Direct Cost Allocation Plan Elements

- **Comprehensive** description of agency's treatment of direct and shared costs
- CAA's **definition of cost objective**
- Identifies **types of shared costs & methods used** to allocate each type
- **Defines** agency-wide **administrative costs**
- Identifies **method used to allocate administrative costs**
- Identifies **effective dates**

CAPLAW Cost Allocation Toolkit

Being Direct: Shared Cost Recovery through Direct Cost Allocation

Table of Contents

Introduction	1
The Uniform Guidance	2
Overview of Cost Recovery Options	2
Deciding Whether to Directly Allocate Shared Costs	4
How to Recover Shared Costs Through a Cost Allocation Plan	6
Requirements of a Cost Allocation Plan for Shared Costs	8
Common Allowable Methods of Cost Allocation	9
Cost Shifting	13
Appendix: Sample Cost Allocation Plan	

Introduction

Somewhere in America, a small community action agency (CAA) employs an executive director. She oversees the organization and performs various tasks at different times for the three programs that the agency provides to the community. Each program is funded by different federal and state funding sources, and the levels of funding provided fluctuate from year to year. The time she dedicates to each program varies from week to week. She also supports the agency's board of directors, oversees its financial management, and develops the new organization-wide strategic plan, all to the benefit of the entire agency. The CAA rents office space, leases a vehicle, and purchases office equipment and supplies that staff use for each program. As a small agency, the CAA seeks to operate efficiently and to stretch each dollar as far as possible to better serve its community. To do so, it must recover not only those costs that are easy to identify with a specific funding source but also those that are not as easily identifiable, i.e., shared costs. These are the costs, like those associated with the executive director role, that span multiple programs and funding awards, and for which the benefits each program or award receives from them is difficult to discern. How then does a CAA accurately and fairly allocate these shared costs?

The shared cost recovery conundrum is one that all federally funded organizations wrestle with. It's also one that has more than one allowable answer. Depending on an organization's size, resources, experience, staffing, or preference, the method it chooses to recover shared costs may vary. This resource explores one of those options for an organization's shared cost recovery: direct cost allocation.

Direct cost allocation is the process of assigning a cost incurred to a cost objective (a grouping of costs related to achieving a specific purpose) so that it may be tracked and charged to the organization's funding awards. Decisions around cost allocation and the processes involved in doing it correctly are far from simple. For many organizations, cost allocation remains a source of great confusion and complexity given how they incur costs, the number of funding awards they typically receive, and the rules that apply related to proper accounting and allowability.

 Kay Sohl Consulting

- Developed with Kay Sohl
- Available in CAPLAW's Resource Library
- Replaces 2011 resource
- Based on OMB Uniform Guidance
- Includes Common Allowable Allocation Methods, Examples, and Sample Cost Allocation Plan

Cost Allocation Plan Pitfalls

- **Costs must be allocated to all cost objectives they benefit – regardless of funding limitations**
- In most cases, administrative or indirect costs may **not** be allocated based on % of total direct costs dollars attributed to each cost objective
- Use of such percentages is generally **limited to calculation of indirect cost rates** not in cost allocation plan to justify direct charging of allocated agency wide admin costs

Direct Charging Allocated Costs

	Prog 3	Prog 2	Prog 1	↓ Shared	Total	
Total Direct Costs	2 Million	1 Million	100,000		3.1 Million	
Rent				60,000	60,000	
Audit				20,000	20,000	
Accounting Staff				60,000	60,000	
Utilities				10,000	10,000	
TOTAL	2 Million	1 Million	100,000	150,000	3,250,000	
	Prog 3	Prog 2	Prog 1	Shared	Total	
Total Direct Costs	2 Million	1 Million	100,000		3.1 Million	
→	Rent	39,000	19,200	1,800	0	60,000
→	Audit	13,000	6,400	600	0	20,000
→	Accounting Staff	39,000	19,200	1,800	0	60,000
→	Utilities	6,500	3,200	300	0	10,000
	TOTAL	2,097,500	1,048,000	104,500	0	3,250,000

Direct Charge through Cost Allocation: Challenges

- Finding defensible **allocation method**
- Constant **flux** in allocated costs as programs expand and contract
- **Difficult to explain** why shared costs are charged as direct
- Under Uniform Guidance, **certain costs*** may **only be charged as indirect** (i.e., using NICR or 10% rate)

* *Preparation of grant applications*

Cost Recovery Using an Indirect Cost Rate

Indirect Cost Rate Basics

- **Indirect costs** expressed as a % of **direct cost base**
- Base must **include all direct costs** whether or not they are funded with Federal \$\$
- **Direct Cost Base** includes **unallowable** direct costs as well as allowable direct costs

De Minimis Rate



Caution:
HHS did not
adopt 2020
UG
Revisions

- Available to all nonprofits that don't have a federally negotiated indirect rate (per 2020 UGG Revisions) *
- **No negotiation** required
- **Modified Total Direct Costs** must be used as the **base** for the calculation & application of rate
- * **HHS is expected to adopt 2024 revisions**


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



10% means 10% of MTDC

... SO

first determine MTDC



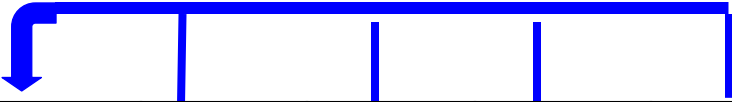
				MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Costs
				4 Million	1 Million	2.1 Million	700,000	200,000

4 million MTDC x 10% = 400,000

10% de minimis rate	Direct Charging	Negotiate w/ Pass Through	Federal Negotiated Indirect Rate
--------------------------------	----------------------------	--	---



**Note that the 10% de minimus rate is
10% of MTDC
not 10% of total costs**



Total Expenses	Unallowable Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs (10% of MTDC)	MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Costs
4,450,000	10,000	40,000	400,000	4 Million	1 Million	2.1 Million	700,000	200,000

10% de minimis rate	Direct Charging	Negotiate w/ Pass Through	Federal Negotiated Indirect Rate
---------------------	-----------------	---------------------------	----------------------------------



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

Applying the 10% MTDC Rate

Total Expenses	Unallow Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs	MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Cost
4,450,000	10,000	40,000	400,000	4,000,000	1,000,000	2,100,000	700,000	200,000
Indirect Rate .10				400,000	100,000	210,000	70,000	20,000
Excluded Costs		-40,000					40,000	
Unallow Indirect	-10,000							10,000
Total Costs					1,100,000	2,310,000	810,000	230,000



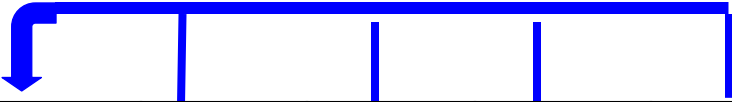
Will 15% De Minimis Rate Work Well for Your CAA?

- Identify all agency-wide admin costs
- Calculate MTDC Base
- **Would 15% de minimis rate allow your CAA to fully recover agency-wide admin costs?**
- **Is 15% more** than your actual agency-wide admin costs?
- If so, test adding facilities or other shared costs into **“indirect pool”**
- **Be sure you do not double dip** – allocating and direct charging costs included in indirect pool

15% means 15% of MTDC

... SO

first determine MTDC



			Allowable Indirect Costs (15% of MTDC)	MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Costs
			573,900	3.826 Million	957,00	2.008 Million	670,000	191,000

15% de minimis rate	Direct Charging	Negotiate w/ Pass Through	Federal Negotiated Indirect Rate
---------------------	-----------------	---------------------------	----------------------------------



**Note that the 15% de minimus rate is
15% of MTDC
not 15% of total costs**

Total Expenses	Unallowable Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs (15% of MTDC)	MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Costs
4,449,900	10,000	40,000	573,900	3.826 Million	957,00	2.008 Million	670,000	191,000

15% de minimis rate	Direct Charging	Negotiate w/ Pass Through	Federal Negotiated Indirect Rate
---------------------	-----------------	---------------------------	----------------------------------



Applying the 15% MTDC Rate

Total Expenses	Unallow Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs	MTDC	Prog 1 MTDC	Prog 2 MTDC	Prog 3 MTDC	Non-Federal MTDC Cost
4,449,900	10,000	40,000	573,900	3.826 Million	957,000	2,008,000	670,000	191,000
Indirect Rate .15				573,900	143,550	301,200	100,500	28,650
Excluded Costs		-40,000					40,000	
Unallow Indirect	-10,000							10,000
Total Costs					1,100,550	2,309,200	810,500	229,650



Federally Negotiated Indirect Cost Rate

- Must have **direct federal award** to negotiate
- Negotiate with federal agency providing largest portion of direct federal funding
- Choose an **indirect cost base**
- **Submit proposed rate** following 2 CFR 200 requirements
- Federal agency **determines rate & time period** it will cover

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



www.kaysohlconsulting.net

Different Indirect Cost Bases result in different Indirect Cost Rates

Your choice of **indirect cost rate bases**:

- **Direct Salaries and Wages** provides smallest denominator and yields **highest indirect %: in this example 36%**
- **Total Direct Personnel Costs** (including employer taxes & benefits) yields **next highest indirect %: in this example 27%**
- **MTDC** yields **lowest indirect %: in this example 22%**

NICR using **Total Direct Salaries** as the indirect cost rate base

	Total Costs	Unallow Indirect Costs	Allowable Indirect Costs	Total Direct Salaries	Award 1 Direct Salaries	Award 2 Direct Salaries	Award 3 Direct Salaries	Non-Fed Direct Salaries
Salaries Only	2,640,000		440,000	2,200,000	588,000	1,100,000	380,000	132,000
Other Expenses	1,810,000	10,000	360,000	1,440,000	412,000	640,000	320,000	68,000
Total	4,450,000	10,000	800,000	3,640,000	1,000,000	1,740,000	700,000	200,000

Allowable Indirect	800,000
Direct Salaries Base	2,200,000
Indirect Rate	0.36

Impact of using **Total Direct Salaries** as indirect cost base (36% rate)

	Total	Unallowable indirect	Allowable indirect	Total Direct Salaries	Award 1 Direct Salaries	Award 2 Direct Salaries	Award 3 Direct Salaries	Non-fed Direct Salaries
Salaries Only	2,640,000		440,000	2,200,000	588,000	1,100,000	380,000	132,000
Indirect Costs	370,000	10,000	360,000					
Indirect Rate .36%			-800,000	800,000	213,500	400,000	139,000	47,500
Other Direct exp	1,440,000			1,440,000	412,000	640,000	320,000	68,000
Unallowable indirect		-10,000		10,000				10,000
Total Costs	4,450,000	0	0	4,450,000	1,213,500	2,140,000	839,000	257,500



NICR using Total Direct Personnel Costs as indirect cost rate base 27% rate

TOTAL Expenses	Total Costs	Unallowable Indirect Costs	Allowable Indirect Costs	Direct Personnel Costs	Award 1 Direct Personnel	Award 2 Direct Personnel	Award 3 Direct Personnel	Non-Fed Direct Personnel Cost
Salaries & Fringe Benefits	3,600,000		600,000	3,000,000	800,000	1,500,000	520,000	180,000
Other Expenses	850,000	10,000	200,000	640,000	200,000	240,000	180,000	20,000
Total	4,450,000	10,000	800,000	3,640,000	1,000,000	1,740,000	700,000	200,000

Allowable Indirect	800,000
Total Direct Personnel Costs	3,000,000
Indirect Rate	0.27

Impact of using **Total Direct Personnel Costs** as the indirect cost rate base (27% rate)

	Total	Unallow indirect	Allowable indirect	Total Costs	Award 1	Award 2	Award 3	Non-fed
Total Direct Personnel costs	3,000,000			3,000,000	800,000	1,500,000	520,000	180,000
Allowable indirect cost	800,000		800,000					
Indirect Rate .27%			-800,000	800,000	213,333	400,000	138,667	48,000
Other Direct exp	650,000	10,000		640,000	200,000	240,000	180,000	20,000
Unallowable indirect costs		-10,000		10,000				10,000
Total Costs		0	0	4,450,000	1,213,333	2,140,000	838,667	258,000



NICR using **MTDC** as indirect cost rate base

22%*

* not de minimis rate

TOTAL Expenses	Unallow Indirect Costs	Excluded Direct Costs	Allowable Indirect Costs	Total MTDC Base	Award 1 MTDC Expenses	Award 2 MTDC Expenses	Award 3 MTDC Expenses	Non-Fed MTDC Expenses
4,450,000	10,000	40,000	800,000	3,600,000	1,000,000	1,740,000	660,000	200,000

Allowable Indirect	800,000
MDTC	3,600,000
Indirect Rate	0.22

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

Impact of using the MTDC as the indirect cost rate base (22% rate)*

*Not De Minimis Rate

	TOTAL Expenses	Unallow indirect costs	Excluded direct costs	Allowable Indirect costs	MTDC	Award 1 MTDC expenses	Award 2 MTDC expenses	Award 3 MTDC expenses	Non-fed MTDC expenses
	4,450,000	10,000	40,000	800,000	3,600,000	1,000,000	1,740,000	660,000	200,000
Indirect Rate .222				-800,000	800,000	222,222	386,667	146,667	44,444
Excluded costs			-40000		40,000			40,000	
Unallow indirect costs		-10000			10,000				10,000
Total Costs	4,450,000	0	0	0	4,450,000	1,222,222	2,126,667	846,667	254,444



Part 2: August 8, 2024

De Minimis Rate Questions and Challenges

- **Testing the de minimis rate for your CAA**
- **Dealing with Administrative Cost Caps**
- **Transitioning to the de minimis rate**
- **Pros & cons of negotiating an indirect cost rate**
- **Indirect Cost Rate implementation challenges**
- **Next steps**

Next Steps

Explore Review & Revise

- **Your Cost Allocation Plan**
- **Implementation of your Cost Allocation Plan**
- **Your direct charging challenges**
- **Pros & Cons of de minimis rate**
- **Pros & Cons of NICR**
- **Admin cap challenges**

Take a Deep Breath!



Cost Allocation Resources

- Cost Allocation Plan Checklist
- Cost Allocation Plan Elements
- CAPLAW Cost Allocation Toolkit
- <https://caplaw.org/resources/cost-allocation-toolkit>