



DEPARTMENT OF THE NAVY
OFFICE OF NAVAL RESEARCH
875 NORTH RANDOLPH STREET
SUITE 1425
ARLINGTON, VA 22203-1995

IN REPLY REFER TO:

Agreement Date: July 8, 2014

NEGOTIATION AGREEMENT

INSTITUTION: **NEW MEXICO STATE UNIVERSITY
LAS CRUCES, NM 88003-8001**

The Facilities and Administrative (F&A) cost and Fringe Benefit rates contained herein are for use on grants, contracts and/or other agreements issued or awarded to New Mexico State University by all Federal Agencies of the United States of America, in accordance with the cost principles mandated by 2 CFR 220. These rates shall be used for forward pricing and billing purposes for the New Mexico State University's Fiscal Year 2015. This rate agreement supersedes all previous rate agreements/determinations for Fiscal Year 2015.

Section I: RATES - TYPE: PROVISIONAL (PROV)

F&A Rates:

<u>Type</u>	<u>From</u>	<u>To</u>	<u>Rate</u>	<u>Base</u>	<u>Applicable To</u>	<u>Location</u>
<u>Main Campus:</u>						
PROV	7/1/14	Until amended	46.0%	(a)	Instruction	On Campus
PROV	7/1/14	Until amended	46.0%	(a)	Organized Research	On Campus
PROV	7/1/14	Until amended	25.0%	(a)	Organized Research	Off Campus
PROV	7/1/14	Until amended	41.0%	(a)	Agriculture Research	On Campus
PROV	7/1/14	Until amended	26.0%	(a)	Agriculture Research	Off Campus
PROV	7/1/14	Until amended	32.2%	(a)	Other Sponsored Activities	On Campus
PROV	7/1/14	Until amended	26.0%	(a)	Other Sponsored Activities	Off Campus
PROV	7/1/14	Until amended	46.0%	(a)	Branch	On Campus
<u>Physical Science Laboratory (PSL):</u>						
PROV	7/1/14	Until amended		(a)	PSL Organized Research (1)	On Campus
PROV	7/1/14	Until amended		(a)	PSL Organized Research (1)	Off Campus
PROV	7/1/14	Until amended		(a)	PSL Organized Research (2)	On Campus
PROV	7/1/14	Until amended		(a)	PSL Organized Research (2)	Off Campus

Fringe Benefit Rates:

<u>Type</u>	<u>From</u>	<u>To</u>	<u>Rate</u>	<u>Base</u>	<u>Applicable To</u>	<u>Location</u>
PROV	7/1/14	Until amended	34.3%	(b)	Regular Employees	Main Campus
PROV	7/1/14	Until amended		(b)	Regular Employees	PSL
PROV	7/1/14	Until amended	21.3%	(b)	Non-Regular Employees	All
PROV	7/1/14	Until amended	0.9%	(b)	Student Employees	All
PROV	7/1/14	Until amended	4.0%	(b)	Graduate Assistant	All
PROV	7/1/14	Until amended		(c)	PSL Leave	PSL

DISTRIBUTION BASES

- (a) Modified Total Direct Costs (MTDC), as defined in 2 CFR 220, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care and tuition remission, long term space rental costs, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000 shall be excluded from Modified Total Direct Costs.
- (b) Direct staff salaries and wages (including overtime expense, straight or premium) and employee leave benefits.
- (c) Direct staff salaries and wages (including overtime expense, straight or premium)

APPLICABLE TO

- (1) Applies to DOD contracts awarded before November 30, 1993, all Non-DOD Instruments, and all DOD grants (See Section II, paragraph E). (Capped)
- (2) Applies to only DOD contracts awarded on or after November 30, 1993 in accordance with and under the authority of DFARS 231.303(1) (See Section II, paragraph E). (Uncapped)

SECTION II - GENERAL TERMS AND CONDITIONS

A. LIMITATIONS: Use of the rates set forth under Section I is subject to any statutory or administrative limitations and is applicable to a given grant, contract or other agreement only to the extent that funds are available and consistent with any and all limitations of cost clauses or provisions, if any, contained therein. Acceptance of any or all of the rates agreed to herein is predicated upon all the following conditions: (1) that no costs other than those incurred by the grantee/contractor were included in its indirect cost pool as finally accepted and that all such costs are legal obligations of the grantee/contractor and allowable under governing cost principles; (2) that the same costs that have been treated as indirect costs are not claimed as direct costs; (3) that similar types of costs, in like circumstances, have been accorded consistent accounting treatment; (4) that the information provided by the contractor/grantee, which was used as the basis for the acceptance of the rates agreed to herein and expressly relied upon by the

Government in negotiating the said rates, is not subsequently found to be materially incomplete or inaccurate.

B. ACCOUNTING CHANGES: The rates contained in Section I of this agreement are based on the accounting system in effect at the time this agreement was negotiated. Changes to the method(s) of accounting for costs, which affects the amount of reimbursement resulting from the use of these rates, require the written approval of the authorized representative of the cognizant negotiating agency for the Government prior to implementation of any such changes. Such changes include but are not limited to changes in the charging of a particular type of cost from indirect to direct. Failure to obtain such approval may result in subsequent cost disallowances.

C. PROVISIONAL RATES: The provisional rates contained in this agreement are subject to unilateral amendment by the Government or bilateral amendment by the contracting parties at any time.

D. USE BY OTHER FEDERAL AGENCIES: The rates set forth in Section I hereof were negotiated in accordance with and under the authority set forth in 2 CFR 220. Accordingly, such rates shall be applied to the extent provided in such regulations to grants, contracts and other transactions to which 2 CFR 220 is applicable, subject to any limitations in part A of this section. Copies of this document may be provided by either party to other Federal agencies which have or intend to issue or award grants and contracts using these rates or to otherwise provide such agencies with documentary notice of this agreement and its terms and conditions.

E. APPLICATION OF INDIRECT COST RATES TO DOD


CONTRACTS/SUBCONTRACTS: In accordance with DFARS 231.303, for New Mexico State University's PSL Organized Research Rate, no limitation (unless waived by the institution) may be placed on the reimbursement of otherwise allowable indirect costs incurred by an institution of higher education under a DOD contract awarded on or after November 30, 1993, unless the same limitation is applied uniformly to all other organizations performing similar work. It has been determined by the Department of Defense that such limitation is not being uniformly applied. Accordingly, the rates cited (2) of Section I, as explained under the title, "APPLICABLE TO" do not reflect the application of the 26% limitation on administrative indirect costs imposed by 2 CFR 220, whereas (1) does so.

F. DFARS WAIVER: Signature of this agreement by the authorized representative of New Mexico State University and the Government acknowledges and affirms the University's request to waive the prohibition contained in DFARS 231.303(1) and the Government's exercise of its discretion contained in DFARS 231.303(2) to waive the prohibition in DFARS 231.303(1) with the exception of the PSL Organized Research Rate. The waiver request by New Mexico State University is made to simplify the University's overall management of DOD cost reimbursements under DOD contracts.

G. SPECIAL REMARKS: The Government's agreement with the rates set forth in Section I is not an acceptance of New Mexico State University's accounting practices or methodologies. Any reliance by the Government on cost data or methodologies submitted by New Mexico State University is on a non-precedence-setting basis and does not imply Government acceptance.

Accepted:

FOR NEW MEXICO STATE
UNIVERSITY:



Angela Throneberry
Senior Vice President for Administration
and Finance

7-9-14

Date

FOR THE U.S GOVERNMENT:



Linda B. Shipp
Contracting Officer

7-9-14

Date

For information concerning this agreement, contact:
Linda B. Shipp (linda.shipp@navy.mil), (703) 696-8559
Office of Naval Research, Indirect Cost Branch