Office of the City Administrator
Issued: October 31, 2025

IMPLEMENTATION GUIDANCE FOR THE NONPROFIT FAIR COMPENSATION ACT OF 2020

INTRODUCTION

This document provides direction to District Government agencies on compensating nonprofit organizations for indirect costs in accordance with the Nonprofit Fair Compensation Act and to clarify questions that have arisen since the law's enactment.

BACKGROUND AND PURPOSE

The Nonprofit Fair Compensation Act of 2020 (NFCA) requires District Government agencies to compensate certain nonprofit organizations for indirect costs associated with a grant issued by the agency to the nonprofit organization. Under the NFCA, indirect cost compensation generally should be based on the nonprofit organization's current negotiated indirect cost rate agreement (NICRA) with the federal government. If the nonprofit organization does not have a current federal NICRA, the NFCA allows the nonprofit organization to elect to be compensated for its indirect costs in one of four alternative ways, discussed in more detail below.[1]

The purpose of this document is to provide guidance to District agencies in compensating nonprofit organizations for indirect costs in accordance with the NFCA.

APPLICABILITY

This guidance only applies to *grants* issued by District agencies. Agencies issuing *contracts* should contact the Office of Contracting and Procurement (OCP) for instructions on how to compensate contractors for indirect costs under the NFCA.[2]

With respect to grants, the NFCA only applies to grants to nonprofit organizations. It does not apply to grants to for-profit entities. Moreover, the NFCA does not apply to all nonprofit organizations – nonprofit foundations, hospitals, colleges, and universities are not covered by the NFCA.

Finally, the NFCA only applies to grants funded with District (local) dollars. It does not apply to grants (subgrants) of federal or private grant funding.

In short, the NFCA applies to a grant issued by a District agency only if:

- The grant is issued to a nonprofit organization that is not a foundation, hospital, college, or university AND
- The grant is funded with District (local) funds.

NFCA IMPLEMENTATION TIMELINE

The requirements of the NFCA are being phased in over time, based on the dollar value of the grant. The following chart outlines the effective date(s) of the NFCA, based on the value of the base period of the grant.

Value of the Grant Base Period	Date NFCA Applies
At or below $1 million	October 1, 2021
At or below $5 million but greater than $1 million	October 1, 2022
At or below $10 million but greater than $5 million	October 1, 2023
At or below $25 million but greater than $10 million	October 1, 2024
Greater than $25 million	October 1, 2025

PRE-AWARD, REQUEST-FOR-APPLICATIONS (RFA), AND AWARD PROCESSES

A District agency should complete the following steps during the grantmaking process to ensure that indirect costs are accounted for in accordance with the NFCA:

1. **Pre-award: Identify the funding source.** The NFCA's indirect cost rate compensation options outlined below apply to grants funded with District (local) funds. If a grant is funded with federal dollars, indirect costs should be compensated consistent with the federal requirements for pass-through entities.[3] If a grant is funded with private dollars, indirect costs should be compensated consistent with the requirements of the private grant-awarding entity.

2. **RFA: Include NFCA requirements and related information in the RFA.**

    a. The District agency should state in the RFA that the agency will compensate District (locally)-funded non-profit organizations (that are not foundations, hospitals, colleges, or universities) for their indirect costs incurred in performing the grant activities.

    b. The RFA should inform the grantee of their indirect cost reimbursement options. Specifically, the RFA should include the following options:
        i. Use a current, unexpired federal NICRA;
        ii. Use a de minimis rate of 10% of all direct costs under the grant or contract;
        iii. Negotiate a new percentage indirect cost rate with the awarding agency;
        iv. Use the same percentage indirect cost rate as the nonprofit organization negotiated with any District agency within the past 2 years;
        v. Calculate a percentage rate and base amount, determined by a certified public accountant.

    c. The RFA should list all required documentation for nonprofit organizations to demonstrate what indirect cost rate they will use if they are awarded funds by the District.

    d. The RFA should include a D.C. Code citation to the NFCA.

e. The RFA should include a standard indirect cost compensation clause that obligates the nonprofit contractor or grantee to include indirect costs in any application being submitted to the District.

f. The RFA should include an indirect cost compensation clause that obligates the nonprofit contractor or grantee to pay indirect costs to any nonprofit organization subcontractor or subgrantee at the same rate as the nonprofit organization would receive as a contractor or grantee with the District.

Additional details on these options can be found in the "Additional Details on Indirect Cost Reimbursement Options" section below.

3. **Ensure indirect costs are included in the budget.** Any nonprofit applicant that is applying for funding from a District agency must include indirect costs in their budget for full consideration of their grant application. The nonprofit applicant should include the proposed indirect cost rate, the direct cost base against which the rate would be calculated, and the total amount of indirect costs that the nonprofit would recover during the period of performance.

4. **Award:** The grant agreement should include a provision related to how indirect costs will be compensated (in addition to the general method of compensation, issues such as whether indirect costs should be requested with each invoice and the types of expenses against which indirect costs are calculated should be specified).

ADDITIONAL DETAILS ON INDIRECT COST REIMBURSEMENT OPTIONS

a. Current, unexpired federal NICRA: A nonprofit organization that already has a current, unexpired federal NICRA may budget for indirect cost recovery using the rates approved in that NICRA. District agencies should not accept an expired NICRA. The District agency should also confirm that the federal NICRA is fully applicable to the type of grant issued by the District agency. For example, some federal NICRAs may apply only to specified program types. Also, some federal NICRAs may include independent research and development costs, which generally will not be applicable to District grants. In such a case, the District agency should adjust the federal NICRA by removing the inapplicable indirect costs. If such adjustments are not feasible, the federal NICRA should not be accepted.

b. De minimis rate of 10%: A nonprofit organization that chooses this option and whose budget reflects the 10% rate does not need to provide proof of its indirect costs to get reimbursed.

c. Negotiating a new rate: When a nonprofit organization is awarded a grant from the District, and it does not have a current, unexpired NICRA, it can request to negotiate an indirect cost rate with the District awarding agency. A nonprofit's response to the RFA should include the requested indirect cost rate and the documentation justifying the proposed rate. Documentation should include, but is not limited to, the following: (1) a complete indirect cost rate proposal with signed certification that the proposal was prepared in compliance with federal regulations in the Uniform Guidance (2 CFR Part

200); (2) a complete copy of the nonprofit's financial statements; and (3) administrative documents as requested by the awarding agency.

District awarding agencies should follow federal guidelines and standards when negotiating an indirect cost rate with a nonprofit organization. Examples of federal guidelines and standards are available at the U.S. Department of Labor (DCD-2-CFR Guide), the U.S. Environmental Protection Agency (Sample Indirect Cost Proposal Format For Nonprofit Organizations | US EPA), and the U.S. National Science Foundation (Indirect Cost Rate Proposal Submission Procedures - Manage Your Award | NSF - National Science Foundation). Both the agency and the nonprofit organization should be aware that the process of negotiating an indirect cost rate is often lengthy and may require substantial documentation. If the time to negotiate an indirect cost rate is expected to go beyond the date on which an award is set to be issued, the District awarding agency may issue the award, but withhold funds budgeted for indirect costs pending completion of the indirect cost rate negotiation process. Upon completion of the negotiation process, the District should notify the organization if a modification to the grant budget is necessary. In addition, the awarding agency should provide the nonprofit organization with formal documentation of the establishment of the District-negotiated rate; the form of the documentation should be based on federal NICRA award documents. (See, e.g., indirect-policy-chart-table-3.pdf and EXAMPLE Recipient FY 20nn NICRA.) The documentation should also include a period of validity for the District-negotiated rate, which generally should be at least two (2) years and not more than four (4) years.

If the agency does not believe it has the expertise or resources to negotiate an indirect cost rate, it may instead offer to negotiate a grant-specific indirect cost billing rate (GS-ICBR). The GS-ICBR should be based on reliable, documentary information regarding the organization's indirect costs, but the agency does not need to follow the full set of federal guidelines and standards for negotiating a NICRA. When approving a GS-ICBR, however, the awarding agency must be reasonably certain that the GS-ICBR reasonably approximates the indirect costs the nonprofit organization is likely to incur in carrying out the grant. It is important to note that a GS-ICBR is not considered a "previous District-negotiated rate" under paragraph (d) below; therefore, an agency should not apply a GS-ICBR negotiated by another agency to its own grant.

If the agency does not believe it has the resources to negotiate an indirect cost rate or GS-ICBR, or the nonprofit organization is unable to provide sufficient documentation regarding its indirect costs to establish a GS-ICBR, the agency should refer the nonprofit organization to the other indirect cost reimbursement options under the NFCA.

Finally, if a nonprofit organization has an applicable unexpired federal NICRA or previous District-negotiated rate that is still in effect (see paragraph (d) below), an agency should not negotiate a new rate; instead, it should use either the unexpired federal NICRA or the previous District-negotiated rate.

d. Previous District-negotiated rate: To use an indirect cost rate from a different District agency, a nonprofit organization must be able to supply: (1) a Certificate of Indirect Costs from another District agency; and (2) an Acknowledgment Letter that shows

evidence of that rate having been used by the nonprofit organization within the previous two years.

e. Rate determined by a certified public accountant (CPA): In order to select an indirect cost rate determined by a CPA, a nonprofit organization must produce a letter from a CPA that includes an indirect cost rate that has been calculated with a percentage rate and base amount, using the nonprofit organization's audited financial statements from the immediately preceding fiscal year. The indirect cost rate must be determined by the CPA in accordance with the Uniform Guidance (2 CFR Part 200). Nonprofit organizations should be required to submit a copy of the letter and the CPA's supporting documentation as part of their application packages, in support of their requested indirect costs rate and budgeted indirect costs. The awarding agency is responsible for reviewing the submission and confirming that it complies with the foregoing requirements.

OTHER AUTHORITY

The awarding District agency's policies and procedures must follow this guidance, applicable provisions of the D.C. Municipal Regulations (DCMR), and the District Grants Manual. Grant managers are encouraged to consult with their agency's general counsel or the Office of the City Administrator (OCA) if they have any questions about the applicability of this guidance.

FREQUENTLY ASKED QUESTIONS

Q #1: How should agencies incorporate NFCA language into their RFA and grant agreements?

Answer: Each agency has the discretion to incorporate NFCA language into their RFA and grant agreements in the manner they see fit.

The following are examples of NFCA language that have been incorporated into District agency RFAs:

Example A

An applicant may include its indirect costs in its budget calculation. (See the Nonprofit Fair Compensation Act of 2020, effective March 16, 2021 (D.C. Law 23-185; D.C. Official Code § 2-222.01-03). If the applicant has a current, unexpired NICRA with the federal government, it should use that rate. If the applicant does not have a current, unexpired NICRA with the federal government, it may use one of the following methods:

- 10% of the grant's direct costs;
- an indirect cost rate negotiated with the agency;
- the same indirect cost rate that it has used with any District agency in the past 2 years; or
- a calculated percentage rate and base amount, determined and certified by an independent certified public accountant using federal Office of Management and Budget guidelines.

Example B

Nonprofit organizations, as defined in the NFCA, may include in their rates the indirect costs incurred in provision of goods or performance of services under this contract pursuant to the nonprofit organization's unexpired NICRA. If a nonprofit organization does not have an unexpired NICRA, the nonprofit organization may elect to instead include in its rates its indirect costs:

- as calculated using a de minimis rate of 10% of all direct costs under this contract;
- by negotiating a new percentage indirect cost rate with the awarding agency;
- as calculated with the same percentage indirect cost rate as the nonprofit organization negotiated with any District agency within the past 2 years;
- as calculated with a percentage rate and base amount, determined by a certified public accountant, using the nonprofit organization's audited financial statements from the immediately preceding fiscal year, pursuant to the OMB Uniform Guidance, and certified in writing by the certified public accountant.

Q #2: In some cases, grantees may not understand what is included in indirect costs. How can grant managers explain what indirect costs are? Is there a difference between indirect costs, administrative costs, and operational costs?

Answer: Agencies should follow the OMB definition of indirect cost which can be found at 2 CFR 200.1. Indirect cost means those costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objectives specifically

benefitted, without effort disproportionate to the results achieved. Additional information on indirect costs can be found at 2 CFR 200.414. "Administration costs" are generally considered a subset of indirect costs. See 2 CFR 200.414(a). The terms "operational costs" and "administrative costs" may be used informally by some to refer to indirect costs or administration costs, but the terms "operational costs" and "administrative costs" have no formal meaning in this context and should not be used in grant award documents.

Q #3: Does the NFCA apply to grants to for-profit entities?

Answer: No. The NFCA does not apply to grants to for-profit entities.

Q #4: In addition to a copy of a NICRA and/or certified CPA letter, what other documents are required?

Answer: District awarding agencies have the discretion to request any supporting documentation (beyond a NICRA or CPA letter) to verify a requested indirect cost rate. Supporting documentation may include, but is not limited to, organizational charts, cost policy, personnel worksheets, financial statements, and lists of other grant awards. A nonprofit organization selecting a CPA-calculated rate as their indirect cost rate should be required to submit a copy of the CPA letter and the CPA's supporting documentation.

Q #6: As proof of its unexpired federal NICRA, a non-profit organization submitted a "billing rate" approved by a federal agency. Is this the same thing as a NICRA?

Answer: No, billing rates are issued by federal agencies for specific grant awards and are not equivalent to NICRAs. Billing rates should not be accepted in place of NICRAs.

Q #7: What are the base costs to which the 10% de minimis rate applies?

Answer: As indicated in the Council committee report on the NFCA, the NFCA provision authorizing a 10% de minimis rate is "an approach identical to that used by the Federal government." Therefore, the NFCA's 10% de minimis rate should be calculated based on the grant's modified total direct costs, as defined in federal regulations.

Q #8: A nonprofit organization has requested to negotiate an indirect cost rate with our agency, but we don't have anyone on staff who has the expertise to negotiate a rate. What should we do?

Answer: Your agency should discuss your agency's circumstances with the nonprofit organization and make the nonprofit organization aware of the other indirect cost recovery options available under the NFCA.

ADDITIONAL RESOURCES

The resources and samples below are for informational and illustrative purposes only. Agencies are encouraged to develop documents tailored to their specific needs and contexts.

Sample indirect cost rate proposal procedures:

- U.S. National Science Foundation – Indirect Cost Rate Proposal Submission Procedures: Indirect Cost Rate Proposal Submission Procedures - Manage Your Award | NSF - National Science Foundation

- U.S. Department of Labor Office of the Assistant Secretary for Administration & Management – A Guide for Indirect Cost Rate Determination Website: A Guide for Indirect Cost Rate Determination — Applicable to Nonprofit and Commercial Organizations | U.S. Department of Labor

- U.S. Department of Labor Office of the Assistant Secretary for Administration & Management – A Guide for Indirect Cost Rate Determination PDF File: DCD-2-CFR Guide

- U.S. Department of Labor – A Guide with Respect to Indirect Costs – PowerPoint Guide: A-Guide-with-Respect-to-Indirect-Costs.ppt

- National Endowment for the Humanities – General Guidance on Calculating Indirect Costs: General Guidance on Calculating Indirect Costs | National Endowment for the Humanities

- U.S. Department of Energy – Indirect Cost Rate Agreement and Rate Proposal Guidance: Indirect Cost Rate Agreement and Rate Proposal Guidance; Sample Indirect Cost Rate Proposals

- The National Fish and Wildlife Foundation – Indirect Cost Policy: Indirect Cost Policy | NFWF

Sample NICRA agreements:

- Sample Indirect Cost Rate Agreement sourced from the Metropolitan Transportation Commission: EXAMPLE Recipient FY 20nn NICRA

- Negotiated Indirect Cost Rage Agreement Example sourced from The National Fish and Wildlife Foundation: indirect-policy-chart-table-3.pdf