

**Memorandum**

TO: Office of Management and Budget

FROM: Federal Agency Partners in the Cooperative Ecosystem Studies Units Program

SUBJECT: Notification of Approved Deviation from Negotiated Indirect Cost Rates for CESU Financial Assistance Awards

DATE: 01 August 2020

PURPOSE: In accordance with 2 CFR § 200.414(c)(3), this memorandum sets forth the CESU Network Federal agency notification of approved programmatic deviation from using Federally approved Negotiated Indirect Cost Rate Agreement (NICRA) rates for all Federal financial assistance actions funded through any participating Federal agencies under the CESU program (see attached list). The current mutually agreed upon rate is 17.5% and is applied to the Total Modified Direct Cost (TMDC) base as specified in 2 CFR § 200.68.

The CESU Network determined that it was in the best interest of the government and participating Federal agency partners to submit a joint notification memorandum regarding approved deviation from negotiated indirect cost rates for assistance awards administered under the CESU program and pursuant to individual CESU multiparty agreements.

EFFECTIVE DATE: Upon submission to the Office of Management and Budget

EXPIRATION DATE: 6 years or when indirect rates are modified

BACKGROUND: The CESU program was authorized by Congress under the National Parks Omnibus Management Act of 1998 (Pub. L. 105-391). This directive established a 17-unit national system of competitively established Cooperative Ecosystem Studies Units. The CESU Network now functions as a national consortium of Federal and non-Federal partners. The interagency CESU Network National Council, comprised of administrators and senior scientists for each of the participating Federal agencies, was established through a Memorandum of Understanding (MOU) to provide program governance and oversight, including the review and establishment of the programmatic indirect cost (F&A) rate. The CESU Council and national office staff monitor negotiated rate trends on an ongoing basis to make informed adjustments to the program allowed rates.

Beginning with the initial program competition and continuing each year since the establishment of the CESU Network, the program has implemented, as a provision of each CESU award, a program-wide indirect cost rate that each non-Federal partner entity has voluntarily accepted for all assistance awards issued by participating Federal agencies under the CESU program. This

deviation only applies to awards issued under the CESU program and does not, in any way, require the non-Federal entity to accept this rate on non-CESU funded project awards.

2 CFR 200.414 (c) REQUIREMENTS

1. The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification as described in paragraph (c)(3) of this section.

Each Federal agency participating in the CESU Network is required to have a delegate with the authority to obligate the agency to the requirements of the program. Each participating agency signs the interagency MOU agreeing to accept the provisions of the program. Therefore, upon signing the MOU on behalf of the agency, the requirement for approval of the agency program head is met. The MOU is renewed every 6 years, with amendments added as needed.

2. The Federal awarding agency head or delegate must notify OMB of any approved deviations.

This memorandum serves as joint notification on behalf of all participating Federal agencies under the CESU Program regarding approved deviation from negotiated indirect cost rates for assistance awards administered under the CESU program and pursuant to individual CESU multiparty agreements.

(Programmatic interagency MOUs and individual CESU agreements are available at:
<https://www.cesu.org/>)

3. The awarding agency must implement, and make publicly available, the policies, procedures and general decision making criteria that their programs will follow to seek and justify deviations from negotiated rates.

Tribal, state, and local governments, academic institutions, nongovernmental and nonprofit organizations, and other non-Federal entities are eligible to apply for enrollment in any individual CESU to participate in collaborative activities aligned with the mission and goals of the CESU Network and individual CESU. Beginning with the initial program competition and continuing since the establishment of the CESU Network, the program has implemented a program-wide indirect cost rate that each non-Federal partner entity has voluntarily accepted for all assistance awards issued by participating Federal agencies under the CESU program. This provision does not preclude for any non-Federal partner entity the continuation or establishment of other Federal financial assistance support or procurement actions. The CESU Council and national office staff monitor negotiated indirect cost rate trends on an ongoing basis to inform decisions regarding adjustments to programmatic indirect cost rates.

Confirmation of the institution's/organization's willingness to accept a limited overhead rate of 17.5% (current agreed to rate) and cost base (e.g., MTDC) to which the rate is applicable for activities conducted through the CESU, including research, technical assistance, and

educational services (this overhead rate applies to the entire institution/organization for CESU activities).

Each non-Federal partner entity confirms acceptance of this provision upon application for enrollment to an individual CESU and as a signatory partner institution on each multiparty CESU agreement (whether primary agreement or amendment executed for enrollment of new partners). Per 2 CFR § 200.214, this deviation will only apply to the financial assistance awards issued under the CESU program activities and will not be applied to any other financial assistance program awards issued to the non-Federal entity under a different program activity.

(Additional information about the CESU new partner application process is available at:

<https://www.cesu.org/>)

4. As required under 2 CFR § 200.203 Notices of funding opportunities, the Federal awarding agency must include in the notice of funding opportunity the policies relating to indirect cost rate reimbursement, matching, or cost share as approved under paragraph (e)(1) of this section. As appropriate, the Federal agency should incorporate discussion of these policies into Federal awarding agency outreach activities with non-Federal entities prior to the posting of a notice of funding opportunity.

Funding opportunity announcements for the CESU program include information regarding cost-share requirements/limitations, as appropriate.