History of the Indirect Cost Rate Cap on USDA Competitive Grants
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As recalled by Tim Sanders, then Clerk (the Appropriations Committee in the House), Bob Foster, also then Clerk (the Appropriations Committee in the House), Teri Nintemann, then staff to Senator Lugar, with assistance from Terry Nipp and Christina Buch

Over the years we have all heard stories on the origin of the cap on the indirect cost recovery rate on USDA competitive grants. Some stories were believable and some were laughable. The purpose here is to document the origin of the cap so that there is an accurate description of how such a decision came to be. To get the real story, two key players at the time were consulted. Tim Sanders and Bob Foster were both staff members of the House Appropriations Committee chaired by Congressman Whitten from Mississippi. They provided many of the details in the description of events that follow. Furthermore, Terry Nipp in his role as advocate for the Experiment Stations and Extension interests at the time was consulted to confirm the recollection and added further insight into the role, or lack thereof, of university administrators when the cap was first introduced. For the most recent change in the rate cap, Teri Nintemann, then staff to Senator Lugar, provided necessary details. Finally, Christina Buch, Director of the CSREES Budget Office, assisted in documenting the changes in the indirect cost recovery rate cap. Here is “the rest of the story”.

The story starts more than 10 years ago since the indirect cost rate cap went into effect in FY 1990. An unnamed source at CSREES came to see Bob Foster to discuss what he considered outrageous indirect charges by Universities. This was an off the record discussion. Soon after that visit the article in Science magazine came out that detailed indirect cost recovery rates with some as high as 99% and pointing out some abuses of the use of those monies. Congressman Whitten became interested and asked some questions about it at the agency hearing that year. Following up on his interest, the FY 90 House Appropriations bill contained the following language in Section 639, “Provides that none of the funds in the Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 25 percent of total direct costs under each award.” This language was supported by the Senate. The only concession to the negotiated rate was that the indirect cost could be charged on the total direct costs, not the modified total direct costs. The 25% was close to the overhead rate that the Department of Defense allowed contractors to charge at the time.

At the hearing for FY 1991 Whitten supposedly asked how many universities turned down grants because of this restriction. The answer from the Agency head at the time was, “None.” Also there was little squawking from the universities. Consequently Section 639 contained the following lanuage for FY 91: “None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total direct costs under each award.” Again there was little complaining from the universities. At the next year’s hearing, Whitten again asked what was the impact of the change in rates. The answer from the Agency was that millions more were available for direct research support.

Over the next several years, from time to time people came to the staff of the committee asking that consideration be given to increasing the rate but usually with no justification other than statements like NIH and NSF do not restrict rates. Staff would usually reply with an answer that maybe those agencies should cap the rate and maybe we (the staff) should talk to our other subcommittee staff about the IDC rate. At that point in the conversation, the people asking for consideration went away. Presumably they were concerned that staff would get other rates capped also. Consequently, until recently there was not much interest in pursuing changes in the indirect cost rate.

Then, in the 1998 AREERA Act, the Senate reported language to raise the rate cap to 25% of total federal funds expended in the National Research Initiative (NRI), the Fund for Rural America (FRA), and the Initiative for Future Agriculture and Food Systems (IFAFS). The House version had no mention of the rate cap, and, in compromise, the conference report language dated April 22, 1998 and adopted June 23, 1998 adjusted the rate cap to 19%. The specific language of the Act is: “Except as otherwise provided in law, indirect costs charged against a competitive agricultural research, education, or extension grant awarded under this Act or any other Act pursuant to authority delegated to the Under Secretary of Agriculture for Research, Education, and Economics shall not exceed 19 percent of the total Federal funds provided under the grant award, as determined by the Secretary.”

Finally, the President included language in his budget for FY 2000 that supported the change in the rate cap from 14% to 19%, and both houses enacted the change in their respective budget bills. The House language of May 21, 1999 reads: “This provision provides that none of the funds of this Act may be made available to pay indirect costs charged against agricultural research, education, or extension grants awarded by the Cooperative State Research, Education, and Extension Service in excess of 19 percent of total direct costs, except for grants available under the Small Business Innovation and Development Act.” It is interesting that they apparently recognized the indirect costs associated with small businesses but not with universities.

There is one other issue that needs clarification. Notice above that the AREERA language was “19 percent of the total Federal funds”, whereas the House language was “19 percent of total direct costs”. The final language that was adopted was in accord with AREERA (i.e. 19 percent of total Federal funds). Using this language, the indirect rate is 23.456% of total direct cost (i.e. 23.456/123.456 x 100 = 19). Furthermore, there was no restriction on including equipment and stipend support (tuition, etc.) in the total funds for the project (i.e. it was total direct cost, not modified total direct cost as defined in the negotiated federal indirect cost rate). As a result of these interpretations of the intent of Congress, the actual recovered rate on USDA competitive grants is greater than 19%.

That is, “the end of the story”, at least until now. Undoubtedly we have not seen the end because of the real costs associated with carrying out research, education and extension activities at our universities.

One of the purposes of providing this snippet of history is to put to rest the suggestion that there were considerations of the magnitude of the rate based on discussions with or actions of either ARS or OMB.

The indirect costs (F & A) for awards issued on a competitive basis by CSREES using fiscal year (FY) 2004 appropriations may not exceed 20 percent of the total Federal funds provided under each award, except for grants issued under the Small Business Innovation Research (SBIR) Program which may receive full allowable indirect costs. Another method of calculating the maximum allowable is 25 percent of the total direct costs. This percentage was established by Section 710 of the General Provisions of the FY 2004 Consolidated Appropriations Act (Public Law 108-199). Some programs are not subject to this limitation. To determine applicability, check the appropriate Request for Applications (RFA). For more information contact LOUISE EBAUGH at 202-720-9181 or lebaugh@csrees.usda.gov.