



DEPARTMENT OF THE NAVY

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

IN REPLY REFER TO:

Agreement Date: September 15, 2022
Supersedes Agreement Dated: July 22, 2022

NEGOTIATION AGREEMENT

**INSTITUTION: NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY
SOCORRO, NEW MEXICO 87801**

The Facilities and Administrative (F&A) Cost rates contained herein are for use on grants, contracts and/or other agreements issued or awarded to the New Mexico Institute of Mining and Technology by all Federal Agencies of the United States of America, in accordance with the provisions and cost principles mandated by 2 CFR Part 200. These rates shall be used for forward pricing and billing purposes for the New Mexico Institute of Mining and Technology Fiscal Year 2023. This rate agreement supersedes all previous rate agreements/determinations related to these rates for Fiscal Year 2023.

Section I: RATES - TYPE: FIXED (FIXED)

Type	From	To	Rate	Base	Applicable To	Location
<u>Main Campus F&A Rates:</u>						
FIXED	7/1/22	6/30/23	19.3%	(a)	Organized Research	On Campus
FIXED	7/1/22	6/30/23	22.7%	(a)	Organized Research	Off Campus
FIXED	7/1/22	6/30/23	31.1%	(a)	Other Sponsored Activities	On Campus
FIXED	7/1/22	6/30/23	24.8%	(a)	Other Sponsored Activities	Off Campus
<u>EMRTC Facility Support Rate:</u>						
FIXED	7/1/22	6/30/23	34.4%	(a)	Organized Research and Other Sponsored Activities	On Campus

DISTRIBUTION BASES

- (a) Modified Total Direct Costs (MTDC) means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.

SECTION II - GENERAL TERMS AND CONDITIONS

A. LIMITATIONS: Use of the rates set forth under Section I is subject to availability of funds and to any other statutory or administrative limitations. The rates are 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 the following conditions: (1) that no costs other than those incurred by the institution were included in this indirect cost pool as finally accepted and that such costs are legal obligations of the institution 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 have been accorded consistent accounting treatment; and (4) that the information provided by the institution which was used as a basis for acceptance of the rates agreed to herein, and expressly relied upon by the Government in negotiating and accepting 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 the agreement was negotiated. Changes to the method(s) of accounting for costs, which affect the amount of reimbursement resulting from the use of these rates require the prior written approval of the authorized representative of the cognizant agency for indirect costs. 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. FIXED RATES WITH CARRY-FORWARD PROVISIONS: The fixed rates contained in this agreement are based on estimates of the costs for FY 2023. When actual costs for this fiscal year are determined, adjustments will be applied to a rate negotiation for a subsequent fiscal year to recognize the difference between the FY 2023 estimated costs used to establish the fixed rates and the negotiated actual FY 2023 costs.

D. CARRY FORWARD AMOUNTS: The following FY 2020 Final and FY 2021 Estimated carry-forward amounts were included in the establishment of the FY 2023 rates:

Note () denotes over-recovery

	<u>FY20 Final</u>	<u>FY21 Estimated</u>
<u>Main</u>	<u>Carry-forward</u>	<u>Carry-forward</u>
OR On Campus	(\$1,135,572)	\$0
OR Off Campus	\$14,101	\$17,534
OSA On Campus	\$5,159	\$1,059,285
OSA Off Campus	\$150,515	\$74,290
<u>EMRTC</u>		
Facility Support		\$501,831

E. USE BY OTHER FEDERAL AGENCIES: The rates set forth in Section I are negotiated in accordance with and under the authority set forth in 2 CFR Part 200. Accordingly, such rates shall be applied to the extent provided in such regulations to grants, contracts, and other agreements to which 2 CFR Part 200 applies, subject to any limitations in part A of this section. Copies of this document

may be provided by either party to other federal agencies to provide such agencies with documentary notice of this agreement and its terms and conditions.

F. **DFARS WAIVER:** Signature of this agreement by the authorized representative of the New Mexico Institute of Mining and Technology 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). The waiver request by the New Mexico Institute of Mining and Technology is made to simplify the University's overall management of DoD cost reimbursements under DoD contracts.


G. **SPECIAL REMARKS:**

1. The rates included in Section I are not intended to be applied to Intergovernmental Personal Act (IPA) costs. If the New Mexico Institute of Mining and Technology elects to seek reimbursement of indirect costs associated with IPA agreements, then the New Mexico Institute of Mining and Technology and the Office of Naval Research shall establish a special indirect cost rate for IPA agreements in accordance with the provisions of 2 CFR Part 200.
2. The New Mexico Institute of Mining and Technology uses off-campus rates for sponsored projects that are conducted: (1) in leased facilities where space-related costs, e.g. rent, utilities, and maintenance, are charged directly to the project, or (2) in facilities made available at no cost to the project by another university, the federal government or by any other non-institute organization.
3. The Government's agreement with the rates set forth in Section I is not an acceptance of the New Mexico Institute of Mining and Technology's accounting practices or methodologies. Any reliance by the Government on cost data or methodologies submitted by the New Mexico Institute of Mining and Technology is on a non-precedence-setting basis and does not imply Government acceptance.

Accepted:

FOR NEW MEXICO INSTITUTE OF
MINING & TECHNOLOGY:

FOR THE U.S. GOVERNMENT:


Cleve McDaniel
Vice President for Administration
& Finance

Linda Morgan Wood
Contracting Officer

9/19/22
Date

9/27/22
Date

For information concerning this agreement contact:

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Office of Naval Research

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