



FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA

**Subject: Implementation of Indirect and Fringe Benefits Cost Reimbursement
Limits on Financial Assistance Awards**

On November 10, 2025, the U.S. District Court for the District of Oregon entered an appealable order vacating Policy Flash PF 2025-25 in its entirety and enjoining DOE from implementing it (Case 6:25-cv-01458-MTK). The Department of Energy reserves all rights to appeal. Portions of Financial Assistance Letter FAL 2025-05 and its appendices that implement Policy Flash PF 2025-25 must not be applied until further notice.

References:

Pursuant to 5 U.S.C. 553(a)(2).

- Policy Flash 2025-25 Adjusting Department of Energy Financial Assistance Policy for State and Local Governments' Financial Assistance Awards
- Policy Flash 2025-26 Adjusting Department of Energy Financial Assistance Policy for Nonprofit Organizations' Financial Assistance Awards
- Policy Flash 2025-27 Adjusting Department of Energy Financial Assistance Policy for For-Profit Organizations' Financial Assistance Awards

When is this Financial Assistance Letter (FAL) effective?

This FAL is effective upon issuance.

When does this FAL expire?

This FAL remains in effect until canceled or superseded.

Who is the point of contact?

For Department of Energy (DOE), contact the Contract and Financial Assistance Policy Division, Office of Policy in the Office of Acquisition Management at DOE_oapmpolicy@hq.doe.gov.

For National Nuclear Security Administration (NNSA), please contact the Acquisition Policy and Oversight Division, Policy & Oversight Branch (NA-PAS-111), at (505) 845-5639.

Who is the intended audience?

This FAL guidance is intended for DOE and NNSA Grant Officers. Unless otherwise stated, any reference to DOE or the Department should be understood to include the NNSA.

What is the purpose of this FAL?

The purpose of this FAL is to provide information and guidance on DOE's implementation of the indirect cost and fringe benefit reimbursement limit in financial assistance awards. The reimbursement limit will be calculated as a percentage of the Total Award Amount and specified in the award terms and conditions as a maximum dollar amount to be used for indirect costs and fringe benefits.

What types of actions are affected by this FAL?

This FAL applies to all DOE notice of funding opportunities (NOFOs) and financial assistance actions where funds are appropriated or otherwise made available and used for financial assistance awards to For-Profit Organizations, Nonprofit Organizations, and State and Local Governments.

What is the background?

Through its financial assistance programs DOE uses financial assistance awards to fund research, development, and deployment activities aligned with its mission, policies, and priorities. As part of these awards, a portion of the funding provided by DOE to recipients is allocated to cover indirect costs and fringe benefits.

While DOE acknowledges that many recipients use indirect cost payments to support the overall execution of activities funded through DOE financial assistance, these payments are not directly allocated to specific project tasks. As stewards of taxpayer funds, the Department has a responsibility to ensure that these resources are used appropriately and effectively.

To enhance efficiency and control costs where appropriate, DOE has pursued a more balanced approach that considers both the financial needs of award recipients and the Department's responsibility to manage federal funds effectively. As a result, DOE is implementing a policy to set a dollar limit on the reimbursement of all allocable, reasonable, and allowable indirect costs—including fringe benefits—based on a maximum percentage of the Total Award Amount.

This policy aims to strike a better balance between the Department's commitment to funding impactful financial assistance programs that advance public purposes and its fiduciary responsibility to uphold strong federal stewardship on behalf of the American people.

What is the instruction/guidance in this FAL?

Sections

- A. Definitions
- B. Applicability
- C. Implementation

Appendix 1: Language for Notice of Funding Opportunity (NOFO)
Appendix 2: Language for Award Terms and Conditions

A. Definitions

Direct Cost, as defined in 2 CFR 200.413, are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

For-Profit organization, as defined in 2 CFR 200.1, generally means an organization or entity organized for the purpose of earning a profit. The term includes but is not limited to:

- (1) An “S corporation” incorporated under subchapter S of the Internal Revenue Code;
- (2) A corporation incorporated under another authority;
- (3) A partnership;
- (4) A limited liability company or partnership; and
- (5) A sole proprietorship.

Indirect Cost, as defined in 2 CFR 200.1, means those costs incurred for a common or joint purpose benefiting *two or more* cost objectives (e.g., project, award, or activity) and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Local Government, as defined in 2 CFR 200.1, means any unit of government within a State, including a:

- (1) County;
- (2) Borough;
- (3) Municipality;
- (4) City;
- (5) Town;
- (6) Township;
- (7) Parish;
- (8) Local public authority, including any public housing agency under the United States Housing Act of 1937;
- (9) Special district;
- (10) School district;
- (11) Intrastate district;
- (12) Council of governments, whether or not incorporated as a nonprofit corporation under

- State law; and
(13) Any other agency or instrumentality of a multi-, regional, or intra-State or local government.

Nonprofit organization, as defined in 2 CFR 200.1, means any organization that:

- (1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (2) Is not organized primarily for profit;
- (3) Uses net proceeds to maintain, improve, or expand the organization's operations; and
- (4) Is not an Institute of Higher Education (IHE).

State, as defined in 2 CFR 200.1, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.

Total Award Amount is the total sum of Federal and non-Federal share consisting of allowable direct and indirect costs.

B. Applicability

The requirements of the indirect cost reimbursement limitations are applicable to new financial assistance awards executed on or after May 8, 2025, including fully conditional awards,¹ to the following Non-Federal Entities:

- **For-Profit Organizations**
- **Nonprofit Organizations**
- **State and Local Governments**

Any subrecipient organization shall also adhere to the indirect cost reimbursement limitations set forth in 2 CFR 200.322.

C. Implementation

The maximum amount of funds that may be paid or reimbursed to a recipient for indirect and fringe benefits costs will be calculated as a percentage of the project's Total Award Amount. This amount will be stated as a **maximum dollar value** in the award terms and conditions. The percentage used to calculate the reimbursement limitations are as follows:

- **For-Profit Organizations:** up to **15%** of the Total Award Amount
- **Nonprofit Organizations:** up to **15%** of the Total Award Amount
- **State and Local Governments:** up to **10%** of the Total Award Amount

¹ Fully conditional awards are signed by the Grants Officer where funds are obligated but not released to the recipient.

Financial assistance awards are governed by 2 CFR 200 as adopted and supplemented by 2 CFR 910. 2 CFR 200.414(c) addresses the use of a recipient's negotiated indirect cost rate agreement (NICRA). The percentages listed above may deviate from the recipient's negotiated indirect cost rates specified in the award.

Therefore, Grants Officers must:

1. Include the provision specified in Appendix 1 in each applicable Notice of Funding Opportunity (NOFO).
2. Ensure that each initial and subsequent negotiated and approved budget includes the appropriate percentage limit in the Total Award Amount, when applicable.
3. Include the award term, outlined in Appendix 2, in the award terms and condition in all applicable financial assistance awards.

D. Monitoring During Award Period:

Throughout the life of the award, the Department will monitor progress reports, financial reports and invoices to ensure compliance with the established indirect cost reimbursement limitations.

E. Award Closeout and Compliance:

At award closeout—whether it is resulting from the completion of the project or the termination of work or activities under the award (unilateral or mutual)—the Department will assess whether the total indirect costs and fringe benefits paid or reimbursed to the recipient exceed the applicable percentage of the current Total Award Value. If a recipient has received reimbursement beyond the permitted limit, the recipient will be deemed noncompliant with the terms and conditions of the award.

In such cases, the Grants Officer must take corrective action, which includes requiring the recipient to refund the excess amount in accordance with 2 CFR 200.346 and may also implement additional remedies for noncompliance as provided under 2 CFR 200.339 and 2 CFR 910.372.

Appendix 1

Sample Language for Notice of Funding Opportunity (NOFO)

Limitation on Indirect Costs

DOE has established a maximum dollar amount that it will reimburse for indirect costs and fringe benefits under its financial assistance awards. The maximum amount of funds to be paid or reimbursed under an award for indirect costs and fringe benefit costs will be calculated as a percentage of the Total Award Amount and the maximum dollar amount will be included in the award terms and conditions.

For for-profit organizations, this maximum dollar amount is calculated as fifteen percent (15%) of the Total Award Amount. For nonprofit organizations, this maximum dollar amount is calculated as 15 percent (15%) of the Total Award Amount. For state and local governments, this maximum dollar amount is calculated as 10 percent (10%) of the Total Award Amount.

The Total Award Amount is the sum of total direct costs and indirect cost amounts and comprised of the Federal and, as applicable, the required non-Federal cost share. The maximum indirect and fringe benefits cost reimbursement amount (limitation) applies to all budget periods negotiated at the time of the award and will be adjusted should a modification change the Total Award Amount. The limitation applies to the total award across all budget periods. For multi-year awards, applicants must ensure the indirect costs for each year collectively do not exceed the limitation of the Total Award Amount.

Applicants and recipients must ensure that the sum of indirect costs and fringe benefits in the proposed budget do not exceed the maximum percentage allowed against the total award. For example, a 15% reimbursement limit against a Total Award Amount of \$100,000 means the total indirect costs and fringe benefits may not exceed \$15,000, leaving \$85,000 for direct costs. This limit applies regardless of an applicant's negotiated indirect cost rate agreement (NICRA), rate proposal, or the election of the de minimis rate (15% of modified total direct costs per 2 CFR 200.414(f)). If an applicant's NICRA or de minimis rate yields higher indirect cost amounts than the 15% limitation allows, the limited amount must be used.

Applicants should apply a consistent accounting methodology when allocating their indirect rates (e.g., NICRA, Rate Proposal, or de minimis rate per 2 CFR 200.414(f)), that the organization utilizes to develop the indirect rates, to the maximum extent possible without exceeding the reimbursement limit.

Subrecipients: The indirect cost reimbursement limit applies to the prime recipient and subrecipients, as applicable. Budgets for subawards must also comply with the limitation based on entity type (i.e., for-profit, nonprofit, or state and local government). The maximum amount of funds to be paid or reimbursed from the recipient to a subrecipient for its indirect costs and fringe benefits under a subaward will be calculated as a percentage (%) of the total subaward amount, inclusive of the Federal and applicable non-Federal cost share amount.

Key Definitions per 2 CFR 200.1:

Direct Costs are project costs which can be solely attributed to a specific project, award, or activity with a high degree of accuracy.

Indirect Costs are those costs incurred for a common or joint purpose benefiting *two or more* cost objectives (e.g., project, award, or activity) and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

Calculating the amount of reimbursable indirect and fringe benefit costs:

Developing and applying the indirect cost and fringe benefit reimbursement limit as a percentage of the Total Award Amount requires a flexible and iterative approach during budget planning.

To remain compliant, the budget must be structured so that **indirect cost and fringe benefit reimbursement does not exceed the applicable percentage of the Total Award Amount** (e.g., "indirect costs cannot exceed 10% or 15% of the total award, as applicable"). This may require multiple rounds of budget adjustments to align the proposed costs with the allowable limitations.

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Additional guidance on calculating the allowable indirect cost reimbursement, including a list of frequently asked questions (FAQs) is available [LINK].

Budget Submission Requirements

Detailed Budget: Use the provided budget template.

Compliance

DOE will monitor indirect cost and fringe benefits expenditures throughout the award period to ensure compliance with the established limitation. Any costs that exceed this limitation will be considered unallowable and may result in repayment by the recipient or other corrective actions, as appropriate. Applicants are responsible for maintaining accurate financial records and reporting indirect costs and fringe benefits in accordance with 2 CFR 200.

Waivers to Indirect Reimbursement Limitation

Only in circumstances where the Secretary has determined it is necessary and appropriate, the dollar threshold for payment of indirect costs and fringe benefits may be modified.

Appendix 2

Language for Award Terms and Conditions

Grant Officers must incorporate the following limitations under the Indirect Term of the Award Terms and Conditions to address the indirect cost percentage limitations.

Indirect Cost Reimbursement Limitations

Applicable to State and Local Governments (otherwise delete)

In accordance with DOE Policy, while the recipient may allocate the listed indirect cost rates above, the recipient is limited to a **maximum percentage of 10% of the Total Award Amount for reimbursement of indirect costs and fringe benefits costs.**

Therefore, the limitation for indirect cost and fringe benefits reimbursement on this award is \$[###,###] or no more than **10%** of the total award. These costs shall not be billed to the Government until there is an immediate disbursement need based on an allocation of the indirect billing rate(s) to direct project cost.

Applicable to Non-profit and For-Profit organizations (otherwise delete)

In accordance with DOE Policy, while the recipient may allocate the listed indirect cost rates above, the recipient is limited to a **maximum percentage of 15% of the Total Award Amount for reimbursement of indirect costs and fringe benefits costs.**

Therefore, the limitation for indirect cost and fringe benefits reimbursement on this award is \$[###,###] or no more than **15%** of the total award. These costs shall not be billed to the Government until there is an immediate disbursement need based on an allocation of the indirect billing rate(s) to direct project cost.

Applicable to organizations with burdened labor rates (otherwise delete)

In accordance with DOE Policy, the recipient is limited to a **maximum percentage of [insert 10% or 15%] of the Total Award Amount for reimbursement of indirect costs.** The approved budget reflects the labor billing rates with the maximum allowed for billing purposes.

Subrecipient Indirect Costs (If Applicable):

The recipient must ensure its subrecipient's indirect costs are appropriately managed, allowable, and comply with the requirements of this award, 2 CFR Part 200 as adopted and supplemented by 2 CFR Part 910, including any maximum indirect cost reimbursement that applies to subrecipients, as applicable.

DOE has established a maximum dollar amount that it will reimburse as indirect costs and fringe benefit costs under a financial assistance award, to include the subaward. The maximum amount of funds to be paid or reimbursed from the recipient to a subrecipient for subrecipient indirect and fringe benefit costs under a subaward will be calculated as a percentage (%) of the total subaward amount, inclusive of the Federal and non-Federal cost share amounts.

For for-profit organizations, the maximum reimbursement amount is fifteen percent (15%) of the Total Award Amount. For nonprofit organizations, the maximum reimbursement amount is 15 percent (15%) of the Total Award Amount. For state and local governments, the maximum reimbursement amount is 10 percent (10%) of the Total Award Amount.

The Total Award Amount is comprised of the Federal and any required non-Federal cost share and includes the sum of total direct costs and indirect cost amounts. The maximum indirect and fringe benefits cost reimbursement amount applies to all budget periods negotiated at the time of the award and will be adjusted should a modification change the Total Award Amount. The maximum reimbursement amount applies to the total award across all budget periods. For multi-year awards, applicants must ensure the indirect costs and fringe benefits for each year collectively do not exceed the reimbursement limitation in terms of the applicable percentage of the Total Award Amount.

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