United States Department of Education Restricted Indirect Cost Rate

Frequently Asked Questions (FAQ)

Updated 10/15/2021

1. *What is the background on the restricted indirect cost rate?*

Many large educational entitlement programs that provide funds to state and local

jurisdictions were created by legislative statute that require federal funds be used to

"supplement and not supplant" ongoing educational services. This means state and local

agencies have tax revenue or other financial resources of their own to finance education.

Without the "supplement not supplant" provision, states could simply reduce their support of

educational services to the extent of the newly available federal funding or could substitute

federal money for tax revenue already generated to fund schools.

1. *Are discretionary programs subject to supplement not supplant requirements restricted indirect cost rates?*

Yes, some ED discretionary programs have a supplement not supplant statutory requirement and must utilize a restricted indirect cost rate. Grantees must follow the steps in [34 CFR §76.564 – 76.569](https://www.ecfr.gov/current/title-34/subtitle-A/part-76/subpart-F/subject-group-ECFRbab27e541efa0ea) to calculate the restricted indirect cost rate, in order to comply with statutory requirements.

1. *I am a subaward recipient of a supplement not supplant grant. Do I need to utilize a restricted indirect cost rate?*

Yes, a restricted indirect cost rate is required for supplement not supplant programs awarded to subrecipients. The requirements of pass-through entities ([2 CFR §200.332 (a)(xiv)](https://www.ecfr.gov/cgi-bin/text-idx?SID=7be9dee530ae2ea06ae973fca6bc7b5f&mc=true&node=se2.1.200_1332&rgn=div8) and [2 CFR §200.332(a)(4)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR031321e29ac5bbd/section-200.332#p-200.332(a)(4))) are to provide the required information for the indirect cost rate applicable to the Federal award and follow the appropriate steps for indirect cost rate determination.

1. *May a grantee use a De minimis indirect cost rate on a program that has a statutory supplement not supplant requirement?*

The De minimis rate is not allowed on programs that have supplement not supplant statutory requirements. Education Department Administrative Regulations (EDGAR), which is more restrictive and takes precedence over the Uniform Guidance, states in  [34 CFR §75.563](https://www.ecfr.gov/current/title-34/subtitle-A/part-75/subpart-E/subject-group-ECFRbcd9b7674b344f2/section-75.563) “If a grantee decides to charge indirect costs to a program that has a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds, the grantee shall use a restricted indirect cost rate computed under [34 CFR §76.564 – 76.569](https://www.ecfr.gov/current/title-34/subtitle-A/part-76/subpart-F/subject-group-ECFRbab27e541efa0ea).”

1. *Is there an option similar to the De minimis indirect cost rate within Education Department General Administrative Regulations (EDGAR)?*

A grantee that is not a State or local government\* under a program that contains supplement-not-supplant provisions may elect to utilize a restricted indirect cost rate of 8% modified total direct costs (MTDC) if the restricted indirect cost rate, calculated under [34 CFR §75.563](https://www.ecfr.gov/current/title-34/part-75) and [34 CFR §76.564 – 76.569](https://www.ecfr.gov/current/title-34/subtitle-A/part-76/subpart-F/subject-group-ECFRbab27e541efa0ea), is not less than 8% modified total direct costs. The grantee must maintain documentation that it has an indirect cost rate of at least 8% MTDC.

\*Note that a State-funded institution of higher education is not considered a “State government” for these purposes.

1. *What are restricted rates?*

Restricted rates incorporate the provisions of program legislation that bar supplanting. The

restricted indirect cost rate formula is described at [34 CFR §76.564 – 76.569](https://www.ecfr.gov/current/title-34/subtitle-A/part-76/subpart-F/subject-group-ECFRbab27e541efa0ea). The formula limits the general management costs that can be included in the indirect cost pool (numerator) and requires adjustments to the MTDC base (denominator).

1. *What is the practical effect of the restricted indirect cost rate formula?*

The formula results in a marginal distribution of administrative costs required to implement

federal assistance. The calculation of the restricted indirect cost rate is viewed as a funneling

process. The first step requires the state and local units of government to segregate the accounting of costs between indirect and direct with full cost reimbursement in mind. The

restricted indirect cost rate determination further filters costs that are incurred by the state or

local units of government. Rules in [34 CFR §76.565](https://www.ecfr.gov/cgi-bin/text-idx?SID=289d1e250efc8b02a4003632c312003d&mc=true&node=se34.1.76_1565&rgn=div8) allow only costs for the "direction and

control" of the grantee to be considered general management costs.

Costs associated with activities under organizational units that are not for department-level

management also are not considered general management costs. Therefore, in a restricted rate

setting, indirect costs are purged to include only "organization-wide" general management

costs at the grantee level (e.g., bookkeeping, accounting, payroll, auditing, procurement, and

personnel). The general management costs are refined again to exclude costs of the chief

executive officers, their immediate officers, component officers, and related costs. Related

costs include applicable fringe benefits, travel, space costs, and other associated costs. These

costs are then reclassified from indirect to the MTDC base.

1. *Who are the chief executive officers?*

The chief executive officer exercises overall responsibility for the operation and management

of the organization. The chief executive officer's immediate office includes any deputies or

similar offices, along with the immediate support staff. It is important to emphasize that the

chief executive officer of the grantee is not the governor or member of an elected or appointed

board. Expenses for these positions are already unallowable as general government expenses.

1. *What are component costs?*

Generally, components are organizational units for both indirect and direct functions existing

one level below the chief executive officer unit. Depending upon the organization, there may be

circumstances where component costs would properly be accounted for in the indirect cost

pool. However, organizational structures cannot shield chief financial officers, chiefs of

information technology, chiefs of general counsel, chief internal auditors, and chiefs of human

resources. If any of these positions has significant staff reporting to them, then an

intermediate manager cannot serve as a substitute for these component heads. The grantee’s

organizational structure (see pages 5 & 6 of this document) is considered in determining adjustments for components.

1. *What does the term “organization-wide” mean in the restricted indirect cost rate determination?*

The term organization-wide means those departmental level direction and control functions

that all grantees have in common. The regulations describe accounting, payroll, and

personnel management as examples of organizational disciplines. Often, cross-cutting

educational activities (e.g., curriculum development, pupil data, library services, evaluation

services, and school services) are mistaken for indirect cost functions. They are not for

direction and control of the organization but rather to provide services to schools or students.

Those cost centers are program service functions, even if they have system-wide impact.

The restricted indirect costs include activities related to maintaining operations as a business

concern, but not the delivery of services that the state or local government provides as part of its specific mission.

1. *May costs for divisional administration be billed directly to federal programs?*

Generally, such costs are the obligation of the state and local government. An exception would

be granted if the program official makes a determination that the costs are specifically required

for the award.

1. *Space type costs are accepted in a usual indirect cost environment. How are they*

*accounted for in the restricted indirect cost formula?*

Occupancy and space maintenance costs as described at [34 CFR §76.568](https://www.ecfr.gov/cgi-bin/text-idx?SID=289d1e250efc8b02a4003632c312003d&mc=true&node=se34.1.76_1568&rgn=div8) are included in the

direct cost base (denominator) for the restricted indirect cost rate determination. However, if

the grantee can identify the portion of space that supports allowable indirect cost personnel, then the costs may be included with allowable general management costs.

1. *May the space costs that are reclassified to the other direct cost base be recovered*

*through direct billings?*

These costs may be charged directly to affected programs only to the extent that statutory supplanting prohibitions are not violated. This reimbursement must be approved in advance by the Secretary.

1. *When occupancy costs are part of the approved statewide costs, how are they treated*

*for restricted rate purposes?*

Occupancy costs are disallowed, except where allowable under [34 CFR §76.568 (b)](https://www.ecfr.gov/cgi-bin/text-idx?SID=289d1e250efc8b02a4003632c312003d&mc=true&node=se34.1.76_1568&rgn=div8). The

disallowed statewide costs are not included in the base, because these costs are not incurred by the grantee.

Example 1 Organziation Chart Assessment of Restricted Rate Adjustments

For Illustration purposes only\* The Salaries, Wages, Fringe Benefits, and associate costs of the employees below would be removed from the indirect cost pool and classified to the direct cost base resulting in a restricted indirect cost rate.

Example 2 Organziation Chart Assessment of Restricted Rate Adjustments\*

For Illustration purposes only\* The Salaries, Wages, Fringe Benefits, and associate costs of the employees below would be removed from the indirect cost pool and classified to the direct cost base resulting in a restricted indirect cost rate.