



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

IN REPLY REFER TO:

Agreement Date: June 30, 2010

NEGOTIATION AGREEMENT

INSTITUTION: **THE PENNSYLVANIA STATE UNIVERSITY**
UNIVERSITY PARK, PA 16801-3857

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 Pennsylvania State University (PSU) by all Federal Agencies of the United States of America, in accordance with the cost principles mandated by 2 CFR 220. These rates shall be used for forward pricing and billing purposes for the PSU's Fiscal Year 2011, until amended. This rate agreement supersedes all previous rate agreements/determinations for Fiscal Year 2011.

Section I: RATES - TYPE: PROVISIONAL (PROV)

UNIVERSITY PARK

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
PROV	7/1/10	Until Amended	47.4%	(a)	On Campus Organized Research (1) All Locations Except ARL ¹ , HCM ² , and EOC ³
PROV	7/1/10	Until Amended	26.0%	(a)	Off Campus Organized Research (1) All Locations Except ARL ¹ , HCM ² , and EOC ³
PROV	7/1/10	Until Amended	50.1%	(a)	On Campus Organized Research (2) All Locations Except ARL ¹ , HCM ² , and EOC ³
PROV	7/1/10	Until Amended	28.7%	(a)	Off Campus Organized Research (2) All Locations Except ARL ¹ , HCM ² , and EOC ³
PROV	7/1/10	Until Amended	7.2%	(a)	Organized Research, ARL ¹

¹ Applied Research Laboratory

² Hershey College of Medicine

³ Electro-Optics Center

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
PROV	7/1/10	Until Amended	4.3%	(a)	Organized Research, EOC ³
PROV	7/1/10	Until Amended	44.0%	(a)	On Campus Instruction All Locations Except ARL ¹ , HCM ² , and EOC ³
PROV	7/1/10	Until Amended	21.4%	(a)	Off Campus Instruction All Locations Except ARL ¹ , HCM ² , and EOC ³

HERSHEY COLLEGE OF MEDICINE

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
PROV	7/1/10	Until Amended	54.5%	(a)	On Campus Research, HCM ²
PROV	7/1/10	Until Amended	24.9%	(a)	Off Campus Research, HCM ²

¹ Applied Research Laboratory

² Hershey College of Medicine

³ Electro-Optics Center

DISTRIBUTION BASES

(a) Modified total direct cost (which includes fringe benefits), excludes graduate tuition remission, capital equipment (defined as having a expected life of two years or more and acquisition cost of \$5,000 or more), plant construction, building amortization, the portion of each subgrant and subcontract in excess of \$25,000, and patient care costs.

APPLICABLE TO

(1) Applies to DOD contracts awarded before November 30, 1993, all Non-DOD Instruments, and all DOD grants (See Section II, paragraph E). (Capped)

(2) Applies to only DOD contracts awarded on or after November 30, 1993 in accordance with and under the authority of DFARS 231.303(1) (See Section II, paragraph E). (Uncapped)

SECTION II - GENERAL TERMS AND CONDITIONS

A. LIMITATIONS: Use of the rates set forth under Section I is subject to any statutory or administrative limitations and is 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 all the following conditions: (1) that no costs other than those incurred by the grantee/contractor were included in its indirect cost pool as finally accepted and that all such costs are legal obligations of the grantee/contractor 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, in like circumstances, have been accorded consistent accounting treatment; (4) that the information provided by the contractor/grantee, which was used as the basis for the acceptance of the rates agreed to herein and expressly relied upon by the Government in negotiating 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 this agreement was negotiated. Changes to the method(s) of accounting for costs, which affects the amount of reimbursement resulting from the use of these rates, require the written approval of the authorized representative of the cognizant negotiating agency for the Government prior to implementation of any such changes. 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. PROVISIONAL RATES: The provisional rates contained in this agreement are subject to unilateral amendment by the Government or bilateral amendment by the contracting parties at any time.

D. USE BY OTHER FEDERAL AGENCIES: The rates set forth in Section I hereof were negotiated in accordance with and under the authority set forth in 2 CFR 220. Accordingly, such rates shall be applied to the extent provided in such regulations to grants, contracts and other transactions to which 2 CFR 220 is applicable, subject to any limitations in part A of this section. Copies of this document may be provided by either party to other Federal agencies which have or intend to issue or award grants and contracts using these rates or to otherwise provide such agencies with documentary notice of this agreement and its terms and conditions.

E. APPLICATION OF INDIRECT COST RATES TO DOD CONTRACTS AND SUBCONTRACTS:

1. Signature of this agreement by the authorized representative of the Pennsylvania State University 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) except for Organized Research at University Park. The waiver request by the Pennsylvania State University

is made to simplify the University's overall management of DOD cost reimbursements under DOD contracts.

2. In accordance with DFARS 231.303, no limitation (unless waived by the institution) may be placed on the reimbursement of otherwise allowable indirect costs incurred by an institution of higher education under a DOD contract awarded on or after November 30, 1993, unless the same limitation is applied uniformly to all other organizations performing similar work. It has been determined by the Department of Defense that such limitation is not being uniformly applied. Accordingly, the rates cited (2) of Section I, as explained under the title, "APPLICABLE TO" do not reflect the application of the 26% limitation on administrative indirect costs imposed by 2 CFR 220, whereas (1) do so.

University, Hershey Medical Center, the
F. SPECIAL REMARKS: The rates included in Section I are not intended to be applied to Intergovernmental Personnel Act (IPA) costs. If the Applied Research Lab, or the Electro-Optical Center elects to seek reimbursement of F&A or internal overhead costs associated with IPA agreements, then the University and the Office of Naval Research shall establish special F&A and/or internal overhead rates for IPA agreements in accordance with the provisions of 2 CFR 220.

*JH
7/2/2010*

PENNSYLVANIA STATE UNIVERSITY:

FOR THE U.S. GOVERNMENT:

Joseph J. Doncsecz
JOSEPH J. DONCSECZ
Corporate Controller

Deborah K. Rafi
DEBORAH K. RAFI
Contracting Officer

7/1/10

Date

7/2/10

Date

For information concerning this agreement contact:

OFFICE OF NAVAL RESEARCH

Owen Nicholson

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