



DEPARTMENT OF THE NAVY
OFFICE OF NAVAL RESEARCH
800 NORTH QUINCY STREET
ARLINGTON VA 22217-5660

28
Revised 6/20/05
IN REPLY REFER TO:

NEGOTIATION AGREEMENT

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

The Facilities and Administrative (F&A) cost rates and internal 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 the Office of Management and Budget (OMB) Circular A-21. These rates shall be used for forward pricing and billing purposes for the PSU's Fiscal Years 2005 through 2007. This rate agreement supersedes all previous rate agreements/determinations for Fiscal Years 2005.

Section I: RATES - TYPE: **PREDETERMINED (PRED)** **PROVISIONAL (PROV)**

<u>UNIVERSITY PARK</u>						
<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
			<u>On Campus</u>	<u>Off Campus</u>		
Pred	7/1/04	6/30/07	45.0%	27.0%	(a)	Organized Research, All Locations Except ARL ¹ , HCM ² , EOC ³
Pred	7/1/04	6/30/05	44.2%	19.5%	(a)	Instruction, All Locations Except ARL ¹ , HCM ² , EOC ³
Pred	7/1/05	6/30/06	44.6%	19.7%	(a)	Instruction, All Locations Except ARL ¹ , HCM ² , EOC ³
Pred	7/1/06	6/30/07	44.7%	19.9%	(a)	Instruction, All Locations Except ARL ¹ , HCM ² , EOC ³
Pred	7/1/04	6/30/05	7.7%	7.7%	(a)	Organized Research, ARL ¹
Pred	7/1/05	6/30/06	8.0%	8.0%	(a)	Organized Research, ARL ¹

¹ Applied Research Laboratory

² Hershey College of Medicine

³ Electro-Optics Center

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<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
			<u>On Campus</u>	<u>Off Campus</u>		
Pred	7/1/06	6/30/07	7.9%	7.9%	(a)	Organized Research, ARL ¹
Pred	7/1/04	6/30/05	4.3%	4.3%	(a)	Organized Research, EOC ³
Pred	7/1/05	6/30/06	4.5%	4.5%	(a)	Organized Research, EOC ³
Pred	7/1/06	6/30/07	4.5%	4.5%	(a)	Organized Research, EOC ³

HERSHEY MEDICAL CENTER

Pred	7/1/04	6/30/07	46.5%	26.0%	(a)	Organized Research, HCM ²
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APPLIED RESEARCH LABORATORY – INTERNAL RATES

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
Fixed	7/1/04	6/30/05	22.1%	(b)	Authorized Absences/ ARL ¹
Fixed	7/1/05	6/30/06	20.0%	(b)	Authorized Absences/ ARL ¹
Fixed	7/1/04	6/30/06	42.5%	(c)	Internal Overhead/ ARL ¹
Pred	7/1/04	6/30/07	2.4%	(c)	Use Charge – Government Property/ ARL ¹

ELECTRO OPTICS CENTER – INTERNAL RATES

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE</u>	<u>BASE</u>	<u>APPLICABLE TO/LOCATION</u>
Fixed	7/1/04	6/30/05	16.4%	(d)	Authorized Absences/ EOC ³
Fixed	7/1/04	6/30/05	50.6%	(e)	Internal Overhead/ EOC ³
Prov	7/1/05	Until Amended	16.4%	(d)	Authorized Absences/ EOC ³
Prov	7/1/05	Until Amended	50.6%	(e)	Internal Overhead/ EOC ³

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.

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(b) ARL salaries, excluding graduate assistants, fixed term II and visiting faculty appointments not receiving full benefits and authorized absences.

(c) ARL MTDC as defined in (a) above.

(d) EOC salaries, excluding graduate assistants, fixed term II and visiting faculty appointments not receiving full benefits and authorized absences.

(e) EOC MTDC as defined in (a) above.

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 and (5) the information provided by the contractor/grantee, which was used as the basis for the acceptance of building depreciation cost in 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. PREDETERMINED RATES: The predetermined rates contained in this agreement are not subject to adjustment in accordance with the provisions of OMB Circular A-21, subject to the limitations contained in Part A of this section.

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D. FIXED RATES WITH CARRY-FORWARD PROVISIONS: The fixed rates contained in this agreement are based on estimates of the costs for FY 2005. When actual costs for this fiscal year are determined, adjustments will be applied to the next subsequent rate negotiation to recognize the difference between the FY 2005 estimated costs used to establish the fixed rates and the negotiated actual FY 2005 costs.

E. 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.

F. Carry Forward Amounts: The following carry-forward amounts were considered in the establishment of the FY 2005 through 2007 rates:

1. Estimated FY 2002 Carry-forwards:

Rate Category	Estimated FY 2002 Under / (Over) Recovery			
	Estimated Total	Liquidated in:		
		FY 2005	FY 2006	FY 2007
Organized Research				
On Campus	\$ 3,888,926	\$ 1,296,308	\$ 1,296,308	\$ 1,296,308
Off Campus	\$ 208,881	\$ 69,627	\$ 69,627	\$ 69,627
Instruction				
On Campus	\$ 10,833,125	\$ 3,610,708	\$ 3,610,708	\$ 3,611,709
ARL	\$ 991,904	\$ -	\$ 330,952	\$ 330,952
Hershy College of Medicine				
On Campus	\$ 423,158	\$ 141,052	\$ 141,052	\$ 141,054

Any difference between the estimated FY 2002 carry-forward amount and the negotiated actual FY 2002 carry-forward amounts will be included as an adjustment in a subsequent year rate negotiation.

2. Estimated FY 2003 Carry-forwards:

Rate Category	Estimated FY 2003 Under / (Over) Recovery			
	Estimated Total	Liquidated in:		
		FY 2005	FY 2006	FY 2007
ARL Internal Overhead	\$ 429,089	\$ 429,089	\$ -	\$ -
ARL Authorized Absences	\$ 444,514	\$ 444,514	\$ -	\$ -

Any difference between the estimated FY 2003 carry-forward amount and the negotiated actual FY 2003 carry-forward amounts will be included as an adjustment in a subsequent year rate negotiation.

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G. DFARS WAIVER: 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). The waiver request by the Pennsylvania State University is made to simplify the University's overall management of DOD cost reimbursements under DOD contracts.

H. 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 OMB Circular A-21. Accordingly, such rates shall be applied to the extent provided in such circular to grants and contracts to which OMB Circular A-21 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.

I. SPECIAL REMARKS: The rates included in Section I are not intended to be applied to Intergovernmental Personal Act (IPA) costs. If the University, Hershey Medical Center, 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 OMB Circular A-21.

PENNSYLVANIA STATE UNIVERSITY:

FOR THE U.S. GOVERNMENT:


KENNETH S. BABE
Corporate Controller


DEBORAH K. RAFI
Contracting Officer

6/28/05
Date

6-28-05
Date

For information concerning this agreement contact:

Deborah K. Rafi
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Arlington, VA 22217

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