United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

National Policy Memorandum

Office of Indian Services
Division of Self-Determination

Number: NPM-SELFD-3

Effective: 11/04/2026
Expires: 11/04/2027

Title: Guidance on the Use of the Office of Management and Budget (OMB) De Minimis Indirect Cost Rate

1. Purpose

This memorandum provides interim guidance to ensure that the Bureau of Indian Affairs (BIA) Contract Support Cost (CSC) allowances comply with current OMB requirements for the federal *de minimis* Indirect Cost Rate (IDC). This guidance is necessary because 13 IAM 7, last updated on January 10, 2017, does not incorporate the federally authorized *de minimis* option under OMB's Uniform Guidance. As a result, BIA is issuing this NPM to provide guidance regarding whether and how the *de minimis* option may be applied.

Background

Sections 5325(a)(2) (Title I) and 5363(g)(3) (Title IV) of the Indian Self-Determination and Education Assistance Act (ISDEAA) directs that CSC be provided to all Tribes carrying out programs, services, functions, or activities under ISDEAA contracts or funding agreements. ISDEAA requires that CSC be calculated in accordance with applicable cost principles, which are the OMB Cost Principles codified at 2 CFR part 200-Subpart E. Under the OMB Uniform Guidance, any federal agency that makes federal awards (grants, cooperative agreements, or contracts) must comply with these cost principles.

In 2024, OMB updated 2 CFR 200.414 to increase the *de minimis* rate from 10% to 15% modified total direct costs (MTDC) defined as total direct costs minus specific exclusions (such as equipment over $5,000, capital expenditures, rental costs, and the portion of each subaward exceeding $50,000) and expanded eligibility by removing the prior restriction on entities that previously had a negotiated IDC Rate. This option is therefore available to eligible Tribes and Tribal organizations regardless of whether they have ever negotiated an IDC rate in the past. This rule took effect for awards issued on or after October 1, 2024.

2. Scope

This policy applies to all Indian Affairs (IA) employees involved in agreements made under Title I and Title IV of the ISDEAA.

3. Policy and Procedure

A. Regulatory Authority

The *de minimis* indirect cost rate is authorized exclusively under 2 CFR 200.414. Neither ISDEAA nor its implementing regulations in 25 CFR parts 900 or 1000 establish, define, or otherwise address a *de minimis* rate. Because ISDEAA requires CSC to be calculated using applicable cost principles, IA must apply the *de minimis* provisions of OMB's Uniform Guidance when a Tribe elects to use them under ISDEAA contracts or funding agreements.

B. Allowable Use of the De Minimis Rate

Tribes and Tribal organizations may elect to charge a *de minimis* rate of up to 15 percent of MTDC as authorized by 2 CFR 200.414.

C. Eligibility

Any Tribe or Tribal organization that does not have a current federal negotiated indirect cost rate as defined by OMB's Cost Principles (including provisional rates) may elect to use the *de minimis* rate. The DOI Interior Business Center issues Negotiated Indirect Cost Rate Agreements (NICRA) which indicate the start and end date applicable to the rate issued. If the end date has expired, the Tribe does not have a current federal negotiated indirect cost rate for purposes of the *de minimis* rate election. Eligibility for using the *de minimis* rate is not affected by whether the Tribe previously held a negotiated IDC rate.

D. Application of the Rate

The *de minimis rate* may be applied indefinitely. Once elected, the Tribe or Tribal organization must apply the rate to all federal awards until it chooses to negotiate an IDC rate. Costs must be consistently charged as direct or indirect and may not be double-charged. Federal agencies and pass-through entities may not require recipients to use a lower rate than the rate the recipient has elected, unless otherwise required by statute or regulation. (Note: The *de minimis* rate must not be applied to cost-reimbursement contracts issued directly by the Federal Government in accordance with the Federal Acquisition Regulations (FAR)).

E. Elective Use and Prohibition on Compulsion

Use of the *de minimis* rate is entirely elective. Awarding Officials and program staff must not require or pressure a Tribe to adopt the *de minimis* rate. This guidance clarifies that use of the *de minimis* rate may not be imposed, such practice would be inconsistent with OMB regulations and IA policy.

F. Contract Award Documentation

Awarding Officials must document the Tribe's or Tribal organization's election of the *de minimis* rate in the ISDEAA contract or funding agreement file and on the CSC Calculation Worksheet. The CSC Calculation Worksheet has been updated to include formulas needed to calculate a *de minimis* rate when applicable.

4. Roles and Responsibilities

A. Director, BIA (DBIA) is responsible for the policy and general oversight of the Office of Indian Services (OIS), Division of Self-Determination and its related services, to ensure national CSC policies are in accordance with the ISDEAA.

B. Director, Office of Self-Governance (OSG) is responsible for providing monitoring, guidance, technical support and advisory services, including the development of OSG processes and procedures for administering CSC pursuant to governing statutes and applicable regulations and policies; and for providing oversight for negotiating, calculating, and awarding CSC; and for identifying, correcting, and processing underpayments, overpayments, and other adjustments of CSC in compliance with ISDEAA and applicable regulations, policies and procedures.

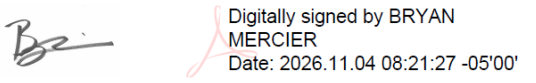
C. Deputy Bureau Director, OIS is responsible for providing direction and support for the execution and coordination of IA responsibilities in the implementation of the ISDEAA as it pertains to CSC; and overseeing the development and implementation of national CSC policies in accordance with the ISDEAA and governing regulations.

D. Chief, Division of Self-Determination, OIS is responsible for providing monitoring, guidance, technical support and advisory services, including the development of BIA processes and procedures for CSC pursuant to governing statutes, regulations and policies; and is responsible for the oversight and execution of this policy through technical assistance and training on program-specific components and monitoring of compliance.

E. Regional Directors, BIA are responsible for the application of policies and procedures, and implementation of ISDEAA within their administrative jurisdictional areas pursuant to governing statutes and regulations.

F. **<u>Awarding Officials</u>** are responsible for negotiating, calculating, and awarding CSC; and identifying, correcting, and processing underpayments, overpayments, and other adjustments of CSC in compliance with ISDEAA, regulations, policies and procedures.

5. Approval



11/04/26

Bryan K. Mercier — Date
Director, Bureau of Indian Affairs