



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

Agreement Date: September 26, 2017

NEGOTIATION AGREEMENT

**INSTITUTION: NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY
 SOCORRO, NEW MEXICO 87801**

The Facilities and Administrative (F&A) and Facility Support cost rates contained herein are for use on grants, contracts and/or other agreements issued or awarded to the New Mexico Institute of Mining and Technology by all Federal Agencies of the United States of America, in accordance with the cost principles mandated by 2 CFR Part 200. These rates shall be used for forward pricing and billing purposes for the New Mexico Institute of Mining and Technology Fiscal Year 2018. This rate agreement supersedes all previous rate agreements/determinations for Fiscal Year 2018.

Section I: RATES - TYPE: FIXED (FIXED)

<u>Type</u>	<u>From</u>	<u>To</u>	<u>Rate</u>	<u>Base</u>	<u>Applicable To</u>	<u>Location</u>
<u>Main Campus F&A Rates:</u>						
FIXED	7/1/17	7/1/18	32.8%	(a)	Organized Research	On Campus
FIXED	7/1/17	7/1/18	11.5%	(a)	Organized Research	Off Campus
FIXED	7/1/17	7/1/18	16.6%	(a)	Other Sponsored Activities	On Campus
FIXED	7/1/17	7/1/18	14.5%	(a)	Other Sponsored Activities	Off Campus
<u>Energetic Materials Research Testing Center (EMRTC) F&A Rates:</u>						
FIXED	7/1/17	7/1/18	54.3%	(b)	Organized Research	On Campus
FIXED	7/1/17	7/1/18	17.7%	(b)	Organized Research	Off Campus
FIXED	7/1/17	7/1/18	27.8%	(b)	Other Sponsored Activities	On Campus
FIXED	7/1/17	7/1/18	20.4%	(b)	Other Sponsored Activities	Off Campus
<u>EMRTC Facility Support Rate:</u>						
FIXED	7/1/17	7/1/18	34.0%	(a)	Organized Research and Other Sponsored Activities	On Campus

DISTRIBUTION BASES

- (a) Modified Total Direct Cost (MTDC), as defined in 2 CFR Part 200, consists of all salaries and wages, fringe benefits, materials and supplies, services, travel and subawards up to the first \$25,000 each subaward (regardless of the period covered by the subaward). Equipment, capital expenditures, charges for patient care and tuition remission, rental costs, scholarships, and fellowships, participant support costs as well as the portion of each subaward in excess of \$25,000 shall be excluded.
- (b) Modified Total Direct Cost (MTDC), as defined above and EMRTC facility support costs.

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 recipient/contractor were included in its indirect cost pool as finally accepted and that all such costs are legal obligations of the recipient/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 recipient/contractor, 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. FIXED RATES WITH CARRY-FORWARD PROVISIONS: The fixed rates contained in this agreement are based on estimates of the costs for FY 2018. 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 2018 estimated costs used to establish the fixed rates and the negotiated actual FY 2018 costs.

D. CARRY-FORWARD AMOUNTS: The following estimated carry-forward amounts were considered in the establishment of the FY 2018 rates. *Note: () represents over-recovery*

	FY08 Final Carry-forward	FY09 Final Carry-forward	FY14 Estimated Carry-forward	FY15 Estimated Carry-forward	FY16 Estimated Carry-forward
<u>Main Campus</u>					
Org. Research - On Campus	(\$26,378)	(\$521,151)			(\$352,775)
Org. Research - Off Campus	(\$10,003)	(\$33,215)			
OSA - On Campus				(\$499,203)	\$67,526
OSA - Off Campus		(\$88,500)			\$93,108
<u>EMRTC</u>					
Org. Research - On Campus		\$62,655			
OSA - On Campus			(\$198,577)		\$631,869
OSA - Off Campus	\$6,291	\$3,938		\$116,127	

E. 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 Part 200. Accordingly, such rates shall be applied to the extent provided in such regulations to grants, contracts and other agreements to which 2 CFR Part 200 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 to provide such agencies with documentary notice of this agreement and its terms and conditions.

F. DFARS WAIVER: Signature of this agreement by the authorized representative of the New Mexico Institute of Mining and Technology 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 New Mexico Institute of Mining and Technology is made to simplify the University's overall management of DOD cost reimbursements under DOD contracts.

G. SPECIAL REMARKS:

1. The rates included in Section I are not intended to be applied to Intergovernmental Personal Act (IPA) costs. If NM Tech elects to seek reimbursement of F&A costs associated with IPA agreements, then the NM Tech and the Office of Naval Research shall establish a special F&A rate for IPA agreements in accordance with the provisions of 2 CFR Part 200.

2. NM Tech uses off-campus rates for sponsored projects that are conducted: (1) in leased facilities where space-related costs, e.g. rent, utilities, and maintenance, are charged directly to the project, or (2) in facilities made available at no cost to the project by another university, the federal government or by any other non-institute organization.

3. The Government's agreement with the rates set forth in Section I is not an acceptance of NM Tech's accounting practices or methodologies. Any reliance by the Government on cost data or methodologies submitted by NM Tech is on a non-precedence-setting basis and does not imply Government acceptance.

Accepted:

FOR NEW MEXICO INSTITUTE OF
MINING & TECHNOLOGY:

By: Cleve McDaniel
Cleve McDaniel
Vice President for Administration
& Finance

Date: 9/29/17

FOR THE U.S. GOVERNMENT:

By: Beth A. Snyder
Beth A. Snyder
Contracting Officer

Date: 9/28/2017

For information concerning this agreement contact:

Beth Snyder, (Beth.Snyder@navy.mil), (703) 696-5755
Office of Naval Research, Indirect Cost Branch/Code 242