

For proposals submitted for projects beginning prior to 07/01/2001, the following fixed rates should be used:

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**NEGOTIATION AGREEMENT**

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INSTITUTION:       NEW MEXICO INSTITUTE OF MINING & TECHNOLOGY  
                               SOCORRO, NEW MEXICO 87801

The Facilities & Administrative (F&A) Cost and Facility Support rates contained herein are for use on grants, contracts and/or other agreements issued or awarded to the New Mexico Institute of Mining & Technology (NM Tech) by all Federal agencies of the United States of America, in accordance with the provisions and 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 at NM Tech for Fiscal Year 2001. This rate agreement supersedes all previous rate agreements or determinations for FY 2001.

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SECTION I: RATES - TYPE: FIXED AND CARRY FORWARD PROVISIONS (FIXED)

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**MAIN CAMPUS RATES**

Type	From	To	Rate	Base	Applicable To	Location
Fixed	07/01/00	06/30/01	57.0%	(a)	Organized Research (1)	On Campus
Fixed	07/01/00	06/30/01	26.0%	(a)	Organized Research (1)	Off Campus
Fixed	07/01/00	06/30/01	19.2%	(a)	Other Sponsored Activities (1)	On Campus
Fixed	07/01/00	06/30/01	14.3%	(a)	Other Sponsored Activities (1)	Off Campus

**ENERGETIC MATERIALS RESEARCH TESTING CENTER (EMRTC)**

Type	From	To	Rate	Base	Applicable To	Location
Fixed	07/01/00	06/30/01	29.1%	(b)	Organized Research (1)	On Campus
Fixed	07/01/00	06/30/01	18.5%	(b)	Organized Research (1)	Off Campus
Fixed	07/01/00	06/30/01	31.7%	(b)	Organized Research (2)	On Campus
Fixed	07/01/00	06/30/01	13.7%	(b)	Organized Research (2)	Off Campus

Fixed	07/01/00	06/30/01	16.5%	(b)	Other Sponsored Activities (1)	On Campus
Fixed	07/01/00	06/30/01	0.0%	(b)	Other Sponsored Activities (1)	Off Campus

**FACILITY SUPPORT RATE:**

Fixed	07/01/00	06/30/01	42.0%	(a)	Organized Research and Other Sponsored Activities	On Campus
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**DISTRIBUTION BASES**

The following bases are applicable to the above cited rates:

(a) Modified Total Direct Cost (MTDC), as defined in OMB Circular A-21, consists of all salaries and wages, fringe benefits, materials and supplies, services, travel and subgrants and subcontracts up to the first \$25,000 each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care and tuition remission, rental costs, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000 shall be excluded.

(b) EMRTC Facility Support costs and Modified Total Direct Cost (MTDC), as defined in OMB Circular A-21, consists of all salaries and wages, fringe benefits, materials and supplies, services, travel and subgrants and subcontracts up to the first \$25,000 each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care and tuition remission, rental costs, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000 shall be excluded.

**APPLICABLE TO**

(1) Applies to DOD contracts awarded before November 30, 1993, all non-DOD Instruments, and all DOD Grants.

(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, Part G.2 hereof.

**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 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 this indirect cost pool as finally accepted and that 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 have been accorded consistent accounting treatment; and (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 and accepting 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 the agreement was negotiated. Changes to the method(s) of accounting for costs which affect 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 the required approval may result in subsequent cost disallowances.

**C. FIXED RATES:** The fixed rates contained in this agreement are based on estimates of the costs for FY 2001. When actual costs for FY 2001 are determined, adjustments will be applied to a subsequent rate negotiation to recognize the difference between the FY 2001 estimated costs used to establish the fixed rates and the negotiated actual FY 2001 costs.

**D. CARRY-FORWARD AMOUNTS:** The rates set forth in Section I are inclusive of FY 1999 carryforward amounts, as established by Negotiation Agreements for FY 1999 Final Rates and Carry-forwards dated May 14, 2001, and estimated FY 2000 carry-forward amounts.

**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 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 otherwise provide such agencies with documentary notice of this agreement and its terms and conditions.

**F. SPECIAL REMARKS:** NM Tech uses off-campus rates on projects for which ninety (90%) or more of the expense will be incurred at a location which is beyond the area maintained by components of the operations maintenance organizational units and costs.

**G. APPLICATION OF FACILITY & ADMINISTRATIVE COST RATES TO DOD CONTRACTS / SUBCONTRACTS:**

1. Signature of this agreement by the authorized representatives of New Mexico Institute of Mining & Technology and the Government, acknowledges and affirms the institution's request for waiver of the prohibition contained in DFARS 231.303(1) and the Government's exercise of its discretion under DFARS 231.303(2) to waive the prohibition in DFARS 231.303(1) for all

Main Campus Facilities and Administrative cost rates and the EMRTC F&A rates applicable to Other Sponsored Agreements. The waiver request by New Mexico Institute of Mining & Technology is made to simplify the institute's overall management of DOD cost reimbursements under DOD contracts.

2. In accordance with DFARS 231.303, no limitation (unless waived by the institution, see paragraph G.1. above) 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 OMB Circular A-21 where as (1) does.

**FOR INFORMATION CONCERNING THIS AGREEMENT CONTACT:**

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