



DEPARTMENT OF THE NAVY  
 OFFICE OF NAVAL RESEARCH  
 875 NORTH RANDOLPH STREET  
 SUITE 1425  
 ARLINGTON, VA 22203-1895

IN REPLY REFER TO:

Agreement Date: June 15, 2010  
 [Supersedes Agreement dated June 25, 2009]

## NEGOTIATION AGREEMENT

Institution: UNIVERSITY OF DENVER  
 2199 S. UNIVERSITY BLVD  
 DENVER, COLORADO 80208

The Facility and Administrative (F&A) Cost Rates, Fringe Benefits Rates, and Lab Rate contained herein are for use on grants, contracts and/or other agreements issued or awarded to the University of Denver by all Federal Agencies of the United States of America, in accordance with the provisions and cost principles mandated by 2 CFR Part 220 – formerly Office of Management and Budget (OMB) Circular A-21. These rates shall be used for forward pricing and billing purposes at the University of Denver for Fiscal Years 2010-2011. This rate agreement supersedes all previous rate agreements/determinations for Fiscal Years 2010-2011.

### SECTION I: RATES - TYPE: Predetermined (Pred) and Fixed with Carry-forward (Fixed)

Type	From	To	Rate	Base	Applicable To	Location
<u>Facility and Administration Rates:</u>						
Pred	7/1/09	6/30/10	51.5%	(a)	Organized Research (1) Academic Research Center	On-Campus
Pred	7/1/09	6/30/10	59.0%	(a)	Organized Research (2) Academic Research Center	On-Campus
Pred	7/1/10	6/30/11	49.2%	(a)	Organized Research (1) Academic Research Center	On-Campus
Pred	7/1/10	6/30/11	58.2%	(a)	Organized Research (2) Academic Research Center	On-Campus
Pred	7/1/09	6/30/11	26.0%	(a)	Organized Research Academic Research Center	Off-Campus
Pred	7/1/09	6/30/11	47.2%	(a)	Sponsored Instruction	On-Campus
Pred	7/1/09	6/30/11	34.0%	(a)	Other Sponsored Activities	On-Campus

<u>Type</u>	<u>From</u>	<u>To</u>	<u>Rate</u>	<u>Base</u>	<u>Applicable To</u>	<u>Location</u>
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Fringe Benefits Rates:

Fixed	7/1/09	6/30/10	24.3%	(b)	Appointed	All
Fixed	7/1/09	6/30/10	7.7%	(c)	Non-Appointed	All
Fixed	7/1/09	6/30/10	1.5%	(c)	Students	All

Lab Rate:

Fixed	7/1/09	6/30/10	\$0.70	(d)	ERI Animal Care Facility	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 2 CFR Part 220 – formerly Office of Management and Budget (OMB) Circular A-21, consists of salaries and wages, fringe benefits, materials and supplies, services, travel and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment (defined as having an acquisition cost equal to or greater than \$5,000 and useful life of more than one year for acquisitions on or after 1 July 2002), 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 is excluded.
- (b) Total Salaries and Wages, including holidays, vacations, sick leave, and overtime.
- (c) Total Salaries and Wages and overtime.
- (d) Per diem charge per cage used.

APPLICABLE TO

- (1) Applies to DOD contracts awarded before November 30, 1993, all Non-DOD Instruments, and all DOD Grants (See Section II, Part G).
- (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).

**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 of 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 regulations; (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 grantee/contractor, which was used as the basis for 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 costs from indirect to direct. Failure to obtain such approval may result in subsequent cost disallowances.

**C. 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 220. Accordingly, such rates shall be applied to the extent provided in such regulation to grants and contracts to which 2 CFR Part 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.

**D. PREDETERMINED RATES:** The predetermined rates contained in this agreement are not subject to adjustment in accordance with the provisions of 2 CFR Part 220, subject to the limitations contained in Part A of this section.

**E. FIXED RATES:** The fixed rates in this agreement are based on estimates of the costs for FY 2010. When actual costs for the period is determined, an adjustment will be made to the rates of a future year to recognize the difference between the FY 2010 estimated costs used to establish the fixed rates and the negotiated actual FY 2010 costs.

**F. CARRY-FORWARD AMOUNTS:** The rates set forth in Section I include the liquidation of the following estimated FY 2008 carry-forward amount.

	<u>FY 2008</u>
Fringe Benefits:	
Appointed	(\$1,270)
Non-Appointed	(\$172)
Student	(\$971)
ERI Animal Care Facility	(\$2,903)

( ) denotes over-recovery

When the FY 2008 carry-forward amounts are negotiated final, the differences between the estimated and final carry-forward amounts will be liquidated in a future rate negotiation.

**G. SPECIAL REMARKS**


**APPLICATION OF FACILITY & ADMINISTRATIVE COST RATES TO DEPARTMENT OF DEFENSE (DoD) CONTRACTS/SUBCONTRACTS:**

1. Signature of this agreement by the authorized representative of the University of Denver and the Government acknowledges and affirms the University's request to waive the prohibition contained in DFARS 231.303(1) except for the Academic Research Center On Campus Organized Research rates (see paragraph G.2. below) 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 University of Denver 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 DoD that such limitation is not being uniformly applied. Accordingly, the Academic Research Center On Campus Organized Research 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 whereas (1) does.


Acceptance:

FOR THE UNIVERSITY:

  
CRAIG WOODY  
Vice Chancellor for  
Business and Financial Affairs

June 15, 2010  
Date

FOR THE U.S GOVERNMENT:

  
DEBORAH K. RAFI  
Contracting Officer

6/16/10  
Date

*For information concerning this agreement contact:*

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