2016 F&A Survey, Rate Negotiation Update, and Hot Topics in F&A

October 2016 COGR Meeting

Washington Marriott, Washington DC

October 20, 2016

COGR

Council On Governmental Relations

An association of research universities

Panel

Cathy Snyder, Director, Contract & Grant Accounting
Vanderbilt University

Jerry Fife, Interim Associate Vice President, Northern Arizona University and Principal – Point Consulting

Jeff Silber, Senior Director, Sponsored Financial Services
Cornell University

Jim Carter, Managing Director – Huron Consulting Group

COGR
Council On Governmental Relations

Agenda

2016 COGR F&A Survey Update

Rate Negotiation Landscape, Observations & Experiences

Hot Topics:

- Direct charging the Single IRB (sIRB)
- GAO: Indirect Cost Rate-Setting Process
- UG FAQs (DS-2, UCA)
- Software Capitalization
- Lease costs and On/Off Campus rate

COGR
Council On Governmental Relations

2016 F&A Survey Update

- On-line, SurveyGizmo (140 surveys submitted!)
- Beta Testers and Thank You's: Broad Institute, UC Merced, Duke, Emory, Georgia Tech, Harvard, University of Miami, CUNY Research Foundation, NYU, Vanderbilt, University of Washington, COGR Costing Committee, and Toni Russo-COGR!
- Open through November; REPORTS IN EARLY 2017
- Always re-open to update Negotiation Results
- Strategic re-open for FY16 base year submissions

COGR
Council On Governmental Relations

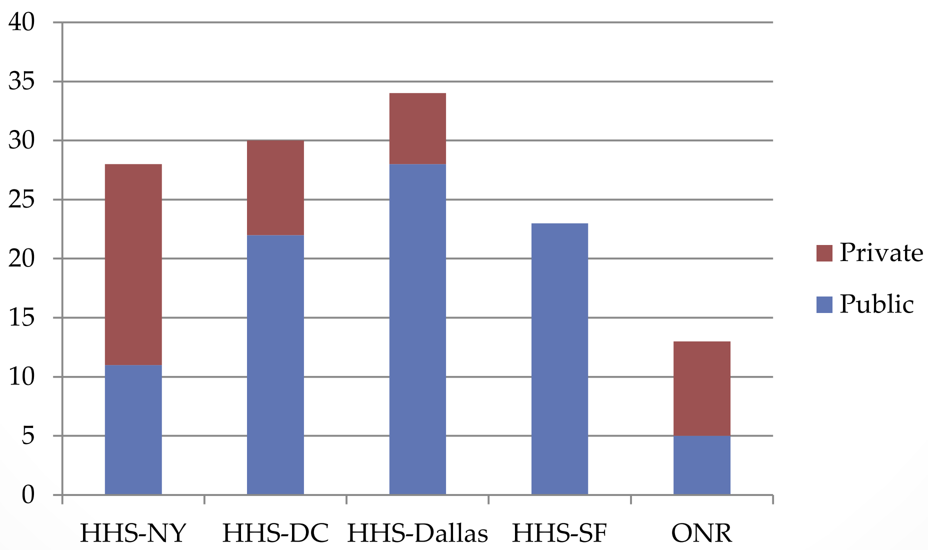
2016 F&A Survey Update

- Rates (On, Off, OSA, etc.) by Institution, FY12 – FY20 ; <u>available to COGR Members</u>
- Executive Summary Report:
  - Rate Trends
  - Stats by Cognizance (HHS-ONR) & Region
  - Treatment of Clinical Trials, Fringe Benefits, etc.
  - F&A proposal questionnaire/methodologies
- Negotiation Experiences by Cognizance & Region (de-identified) ; <u>available to COGR Members</u>
- Next? Effective F&A, by Sponsor type, Internal Distribution, etc.

COGR
Council On Governmental Relations

Surveys Completed
(Cognizance/Public-Private)

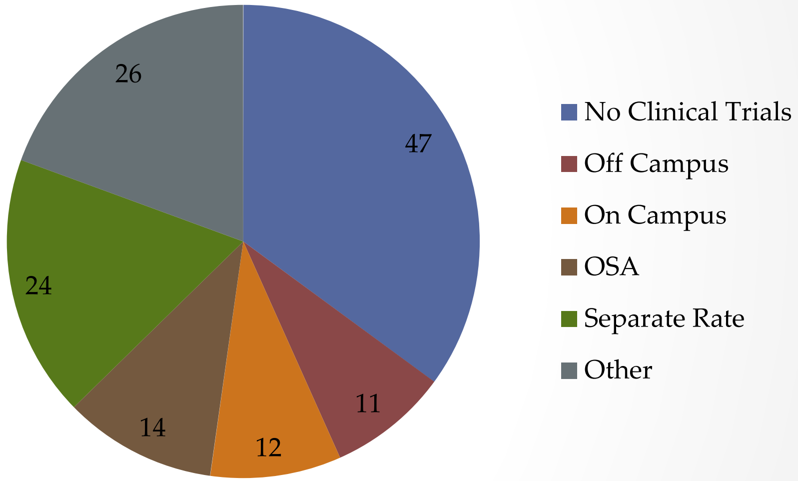
	HHS-NY	HHS-DC	HHS-Dallas	HHS-SF	ONR
Public	11	22	28	23	5
Private	17	8	6	0	8
Total	28	30	34	23	13
Total Responses	**128**				



COGR
Council On Governmental Relations

Rates for Clinical Trials

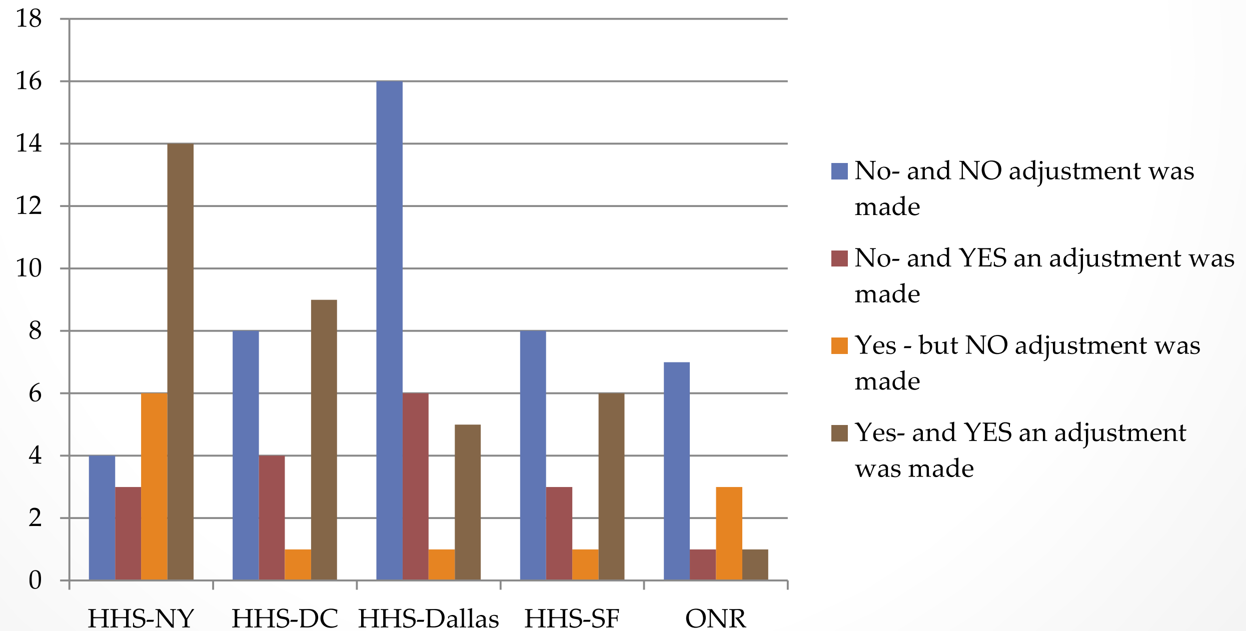
Type of Rate	#
No Clinical Trials	47
Off Campus	11
On Campus	12
OSA	14
Separate Rate	24
Other	26
Total Responses	134



COGR
Council On Governmental Relations

Walk-thru of Research Space

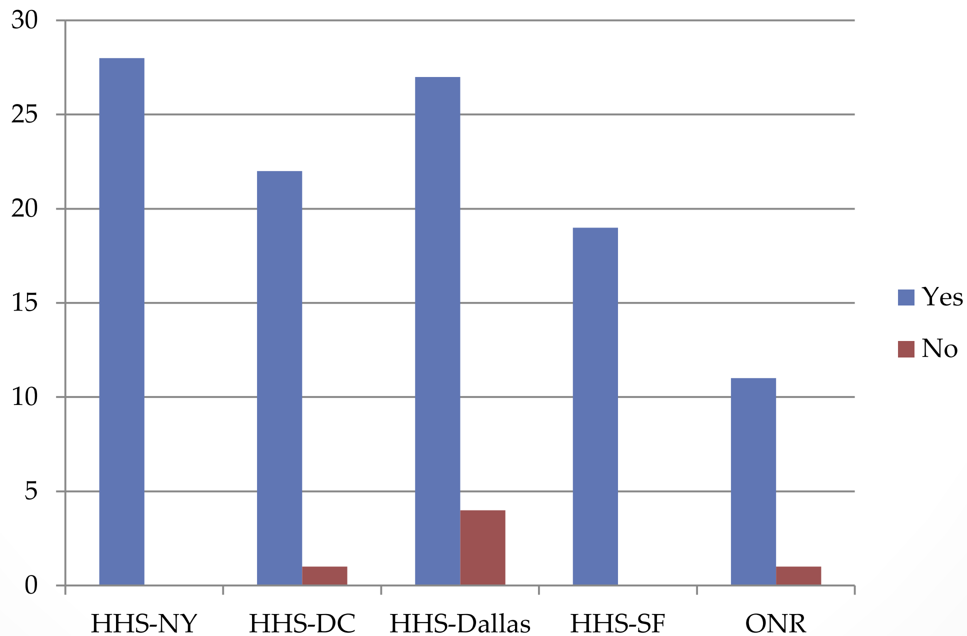
	HHS-NY	HHS-DC	HHS-Dallas	HHS-SF	ONR
No- and NO adjustment was made	4	8	16	8	7
No- and YES an adjustment was made	3	4	6	3	1
Yes - but NO adjustment was made	6	1	1	1	3
Yes- and YES an adjustment was made	14	9	5	6	1
Totals	27	22	28	18	12
Total Responses			107		



COGR
Council On Governmental Relations

Fair/Reasonable Negotiation

	HHS-NY	HHS-DC	HHS-Dallas	HHS-SF	ONR
Yes	28	22	27	19	11
No	0	1	4	0	1
Totals	28	23	31	19	12
Total Responses	113				



COGR
Council On Governmental Relations

Direct Charging the sIRB

- NIH-OD-16-109: *Scenarios to Illustrate the Use of Direct and Indirect Costs for Single IRB Review under the NIH Policy on the Use of Single IRB for Multi-site Research*

- Primary (conducting ethical review of protocol at sites and informed consent template)
- Secondary (PI quals, institutional capability, state/local regulatory requirements, community ethos)
- In general, **primary activities** should be charged as **indirect costs** if those activities are included in an organization's Federally-approved indirect cost rate agreement. **Secondary activities** may be charged as **direct costs**, with appropriate budget justification.

COGR
Council On Governmental Relations

Direct Charging the sIRB

- In-house IRB versus out-source to Commercial?
- COGR position (9/23/2016 letter to OMB and NIH):

  … flexibility to direct charge the full costs of sIRB review, both primary and secondary, … regardless of which entity conducts the review or the institution's level of engagement … And as institution's are forced to reevaluate their entire IRB enterprise, flexibility in costing models will be necessary to ensure that the new NIH mandated policy is successfully implemented.

- 2 CFR 200 Appendix III C.8.b: *Institutions should not change their accounting or cost allocation methods if the effect is to change the charging of a particular type of cost from F&A to direct …*

COGR
Council On Governmental Relations

GAO-16-616, September 2016

- The United States Government Accountability Office (GAO) released GAO-16-616, *Agencies Involved in the Indirect Cost Rate-Setting Process Need to Improve Controls*. The report focuses on processes and controls on the rate-setting processes at Cost Allocation Services (CAS-HHS), the NIH Division of Financial Advisory Services (NIH-DFAS), and the Office of Naval Research (ONR-DOD). GAO found that while CAS, NIH-DFAS, and ONR had designed controls for setting indirect cost rates, deficiencies in the design of some of these controls could result in the waste of federal resources. GAO made 12 recommendations to improve controls. While the report is not directed at our community in any manner, institutions should pay attention to the extent that this may impact future F&A rate negotiations.

COGR
Council On Governmental Relations

Proposed FAQs to OMB
(2 CFR 200.419, DS-2 Approval Process)

- *Q: What cost accounting practice changes are required to be filed as DS-2 amendments to the cognizant agency?*
- A: As specified in FAQ .110-3, IHEs making voluntary changes in cost accounting practices other than those required in the Uniform Guidance should submit their DS-2 (or revised pages) 6 months before the effective date of the proposed change. <u>However,</u> if the cost accounting change is in compliance with policies and practices allowed in the Uniform Guidance, the IHE can proceed with the cost accounting change without approval from the Federal cognizant agency for indirect cost <u>and a DS-2 amendment does not need to be filed</u> … (continued on next page) …

COGR
Council On Governmental Relations

Proposed FAQs to OMB
(2 CFR 200.419, DS-2 Approval Process)

- A: (continued) … A DS-2 amendment should be formally presented to the cognizant agency for indirect cost and may be subject to the approval requirements in 200.419(d)(2) <u>only if the cost accounting change is not clearly defined as allowable in the Uniform Guidance.</u> Regardless of whether a DS-2 amendment is required, the IHE and its Federal cognizant agency for indirect cost <u>should work in a collaborative manner</u> to ensure that compliance with the Uniform Guidance is maximized and that the goals of the Uniform Guidance to reduce administrative burden are achieved.

COGR
Council On Governmental Relations

Proposed FAQs to OMB
(2 CFR 200 – Appendix III, Changes to the UCA)

- *Q: Appendix III, B.4.c(2)(ii)(B) states that OMB will adjust the EUI numbers from time to time (no more often than annually nor less often than every 5 years). What is the process for IHEs to initiate necessary changes in the EUI, and subsequently, the Utility Cost Adjustment (UCA)?*
- A: The IHE community should submit proposed adjustments to OMB, and if applicable, to the cognizant agency for indirect costs, to document the basis for the adjustment. OMB, and if applicable, the cognizant agency for indirect costs, will work with the IHE community to implement the fair and equitable adjustments.

COGR
Council On Governmental Relations

Software Capitalization
(Equipment or Intangible Property?)

- § 200.12 Capital assets. *Capital assets* means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:(a) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and(b) Additions, improvements, modifications, replacements, …
- § 200.33 Equipment. *Equipment* means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000. See also …

COGR
Council On Governmental Relations

Software Capitalization
(Equipment or Intangible Property?)

- § 200.58 Information technology systems. Information technology systems means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also …
- § 200.59 Intangible property. *Intangible property* means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

ANSWER? §200.58 (IT systems) points to §200.33 (Equipment). §200.12 (Capital assets) distinguishes between equipment and IP (software), and IP normally would be classified as §200.59 (Intangible property).

COGR
Council On Governmental Relations

David Kennedy,
Director, Costing Policies
COGR

Vanderbilt University F&A Experience

- Rate agreement with the federal government through FY2016 that included consolidated rates for both Vanderbilt University (VU) and Vanderbilt University Medical Center (VUMC)
- FY2015 was the base year upon which the next set of rates were to be determined, which would set rates for FY2017 and beyond
- VU and VUMC separation effective April 29, 2016
  - VU requested 2 year extension for F&A rates
    - New system implementation
  - VUMC became an independent 501(c)(3) corporation and were no longer subject to principles for Institutions of Higher Education
  - Provided HHS-CAS estimated rate calculations for each separate entity

Vanderbilt University F&A Experience

- Timeline

10/12/2015
F&A Extension Request and VU Updated Disclosure Statement Submitted to HHS-CAS

11/12/2015
On Site Meeting held with HHS-CAS to discuss future state of VU and VUMC

11/20/2015
Additional Information Request to VU

12/7/2015
VU Submitted Additional Information

1/6/2016
VU F&A Rate Extension Approved

- Data Request for VU included:
  - Copy of last audited financial statement and last A-133 audit report
  - Schedule showing research base for each year, beginning with the last reviewed base year up to the last completed fiscal year, plus a projection of your research base for the next 4 fiscal years
  - Detail of all significant changes to the research space since the last reviewed base year (new buildings, buildings closed, major renovations), plus a projection of changes to the research space for the next 2 fiscal years*

*Applies to any changes outside of the dissolved relationship between the University and Medical Center that have already been well-documented.

Cathy Snyder
Director, Grant & Contract Accounting
Vanderbilt University

F&A Rate Negotiations

- CAS Organizational Overview
  - Mr. Arif “Mak” Karim (Director) and Mr. Darryl Mayes (Deputy Director)
  - Relocation is unlikely
- Staffing Shortages
  - Mid-Atlantic (DC) Office supplement staffing with Central (Dallas) Office personnel
  - Possible new hires in Mid-Atlantic Region
  - Possible retirement of long standing CAS personnel

point

F&A Rate Negotiations

- Recent Negotiation Trends
  - Streamlined Review and Negotiation Process
  - Considerable Rate Increases
    - Especially for Institutions with New Research Facilities
  - Straightforward Rate Agreement Extension Process
  - Considerable Backlog for F&A Rate Review and Negotiations, Rate Agreement Extensions and Fringe Benefit Rates

F&A Rate Negotiations

- Outstanding Topics
  - Revised Disclosure Statement (DS-2) Format
  - Capitalization Threshold
    - Software
    - Exceptionally High or Low
  - On, Off-Campus Rates
    - Calculation, Review and Negotiation
    - Definition in F&A Rate Agreement
  - GAO Report (re: NIH Biomedical Research)
  - CAS FAQ's to OMB (re: Uniform Guidance)

point

Rate Negotiation Landscape

- At Northern Arizona University (NAU)
  - Submitted materials & request for a four year extension, June 1, 2016
  - Requested update on October 1 and were informed that the Western region was backlogged and they would get to the request asap

point

Off-Campus Lease Costs

- Off campus definitions differ between institutions
  - Columbia's – *For all activities within a 50 mile radius of the campus and performed in facilities not owned and operated by the institution and to which rent is directly allocated to the project, the off-campus modified rate will apply. For all activities outside a 50 mile radius of campus the off campus rate will apply. Grants or contracts will not be subject to more than one indirect cost rate. If more than 50% of a project is performed off-campus, the appropriate off-campus rate will apply to the entire project.*

Off-Campus Lease Costs

- Northern Arizona University's (NAU) definition
  - ***The off-campus rate is applicable to those projects conducted in facilities not owned or leased by the University***. *However, if the projects is conducted in leased space and the lease costs are directly charged to the project, then the off-campus rate must be used. A project is considered off-campus if more than 50% of its salaries and wages are incurred at an off-campus facility. If a project is determined to be off-campus, it shall be considered wholly off-campus. Separate on and off-campus rates will not be used for a single project.*

point

Off-Campus Lease Costs

- Using NAU's definition there is little doubt about how projects conducted in space not owned or leased should be treated
- Columbia's definition is silent on this issue
- The government's position on this is that projects conducted in space not owned or leased by the institution should have the off-campus rate applied
- The government has been reluctant to change the off-campus definition for institutions

Software Capitalization- Recent Developments

- This came up in discussions between the government and the University of Washington
- Government maintains that the $5,000 equipment threshold applies
- Policies regarding software capitalization in universities are often driven by Controller's office (not sponsored projects) and is driven by definitions of intangible assets

point

Software Capitalization- Recent Developments

- Definitions for software capitalization vary widely for universities from $5,000 to $1,000,000
- In previous negotiations with the government over capitalization of intangible assets the government has required universities to identify assets falling within the range in question and adjusted rates based on the differences (although this is a negotiable item)

Jerry Fife
Associate Vice President for Research for Sponsored Projects
Northern Arizona University

Steps Before the F&A Negotiation

Jeffrey Silber

Cornell University

Cornell University – Ithaca-based Campus

- Base year 2015
- Two OR rates: 61% and 55%
- UG and other changes introduced new questions
- First key issue considered: Extend or not?
  - Flat base
  - New research-intensive, debt-financed building
  - UCA grandfathered through FY15 base year only
  - Next rate agreement can't be as long as last one (5 years)
  - Significant proposal complexity
- Ultimately additional revenue potential prevailed

Special base year preparation

- Formal base year instruction to units for:
  - Space functionalization
  - Equipment inventory
  - Review of direct charged Admin/Clerical
  - Focused training on top 25 departments
- Intensive central analytical reviews of space and base changes
- Review of non-sponsored activity in OR base

Proposal submission

- DCA was comfortable with a three month, then two more, extension.
  - Submitted in late May.
  - Significant proposed increase in one of the OR rates, modest increase in the other.
- DCA provided questions in late September.
- Site visit scheduled for late October.
- Anticipating November/December negotiation.

Preparation for Site Review and Negotiation

- Re-review of proposal space and other data for departments in data request, including comparison with FY16 functionalization
- Notification of units in data request
- Further review of off-campus treatment in light of DOJ settlement at Columbia
  - Considering an unrelated change in criteria
- Assuming a successful negotiation, looking at optimal agreement duration
  - NYC/Roosevelt Island campus has fall 2017 occupancy

Jeffrey Silber
Senior Director
Sponsored Financial Services
Cornell University

CURRENT NEGOTIATIONS

OBSERVATIONS

SCHOOLS ARE STILL GETTING INCREASES WHEN JUSTIFIED

- The timing on negotiations is very unpredictable (across all regions).
  - Some are getting done quickly and some are dragging out for a long time.
  - The larger schools are taking longer and they are getting to the smaller schools more quickly
  - DC office is the most challenging to get negotiations completed
  - The West is losing three experienced staff to retirement
- UCA calculation is around .8 and we haven't seen any calculate the 1.3
- CAS negotiators do not understand the UG and how a rate is calculated
- ONR is very slow to negotiate

OBSERVATIONS

CAS REVIEWS

- Space documentation – occupant and projects
- Subcontracts – details on large projects
- Classification of research into instruction
- Details on non capital OM
- Metrics – last proposal increases and decreases of pools and bases
  - Research Base is flat and facility costs have increased
- Questioning Vicinity rate (Admin + Library) for off-campus close to the University

ON / OFF CAMPUS

HHS SETTLEMENT WITH COLUMBIA UNIVERSITY

GOVERNMENT CLAIMS

- Columbia should have been treating the grants as off-campus (and should have been for 10 years)
  - For cost to be allowable to a project, needs to be reasonable, allowable, allocable.
- The use of the on campus rate is not allocable to the project since there are no facilities costs incurred in the space where the project takes place.

HHS SETTLEMENT WITH COLUMBIA UNIVERSITY

ARGUMENTS THAT COULD BE MADE

- The projects were treated as on-campus in the F&A proposal
  - The calculation of the F&A rate are a series of averaging of costs
  - Without these costs the calculated rate would be higher
  - The government wasn't harmed as a result
- The negotiated agreement states "*performed in facilities not owned by the institution **and to which rent is directly allocated to the project(s)***"
- For part of the time they paid a portion of the facilities component to NY

HHS SETTLEMENT WITH COLUMBIA UNIVERSITY

WHAT DOES THIS MEAN FOR UNIVERSITIES?

+ The focus on F&A proposals is to identify off-campus activities that lower the research base.
+ Pre-award offices don’t identify projects as off-campus unless they are federal and budgeted at the off-campus rate
+ We have seen inconsistent treatment at other institutions like
  - The same leased space has both on and off campus
  - Geography not location determine the treatment

OFF CAMPUS DEFINITIONS

Definition of Off Campus Rate	The off campus rate is applicable to those projects conducted at facilities not owned or leased by the University. However, if the project is conducted in leased space and lease costs are directly charged to the project, then the off-campus rate must be used.
Projects Conducted Entirely On-Campus Or Entirely Off-Campus	Projects conducted entirely on-campus or entirely off-campus will be applied the on-campus or off-campus rate respectively.
Projects Conducted Partially Off-Campus and Partially On-Campus	If the project involves work at both on-campus and off-campus sites, either the on-campus or off-campus rate generally should be applied, consistent with where the majority of the work is performed. Salary cost is generally accepted as a measure of work performed in terms of the total project.
Use of Both On-Campus and Off-Campus Rates	The use of both on-campus and off-campus rates for a given project may be justified if both of the respective rates can clearly be identified with a significant portion of salaries and wages for the project. For purposes of this provision, significant is defined as approximately 25% or more of the total costs and a project's total salary and wage costs exceed $250,000.

JIM CARTER

EDUCATION & LIFE SCIENCES

Expertise in cost analysis and recovery, financial and regulatory issues, and compliance.

JIM CARTER
Managing Director
T 312.799.9171
E jcarter@huronconsultinggroup.com