



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JAN 9 2008

MEMORANDUM FOR DISTRIBUTION

Subj: INDIRECT COST LIMITATION FOR BASIC RESEARCH AWARDS

Encl: (1) USD (AT&L) memo of December 01, 2007

Enclosure (1) is forwarded for immediate implementation. Section 8115 of the DoD Appropriations Act for FY 2008 (P. L. 110-116) limits payments of negotiated indirect cost rates on contracts, grants, or cooperative agreements (or similar arrangements), which are funded with FY 2008 Basic Research appropriations and are awarded on or after November 14, 2007, to not more than thirty-five percent (35%) of the total cost of the instrument. This limitation also applies to any new award made by another Federal agency to a non-Federal entity on behalf of DoD using FY 2008 Basic Research appropriations.

To the extent that your activity obligates Basic Research funds through contracts, grants, cooperative agreements (or similar arrangements), include the necessary language to incorporate the limitation in Section 8115 of the DoD Appropriations Act for FY 2008 (P.L. 110-116) in each new award made on or after November 14, 2007 using FY 2008 Basic Research appropriations. Add a statement in funding documents which transfer FY 2008 Basic Research funds to another Federal agency for obligation to a non-Federal entity notifying the Federal agency to comply with the Section 8115 limitation on payments of negotiated indirect cost rates in each new award it executes using these funds.

Please disseminate this policy memorandum to your program managers, financial managers, and contracting staff for their awareness. Questions regarding this memorandum should be forwarded to Evelyn Ortiz at (703) 614-9640, email evelyn.ortiz@navy.mil.


M. F. Jaggard
Chief of Staff/Policy
DASN (A&LM)

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DEC 01 2007

MEMORANDUM FOR SECRETARY OF THE ARMY
(ATTN: DEPUTY ASSISTANT SECRETARY OF THE
ARMY (PROCUREMENT))
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(ATTN: CHIEF OF NAVAL RESEARCH)
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NAVY (ACQUISITION & LOGISTICS MANAGEMENT))
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DIRECTOR, DEFENSE ADVANCED RESEARCH
PROJECTS AGENCY
ASSISTANT TO THE SECRETARY OF DEFENSE FOR
NUCLEAR & CHEMICAL & BIOLOGICAL DEFENSE
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DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, WASHINGTON HEADQUARTERS SERVICES

SUBJECT: Indirect Cost Limitation for Basic Research Awards

Please expeditiously issue direction to all offices or laboratories within your Military Department or Defense Agency that may obligate or transfer for obligation Basic Research appropriations, to require compliance with the requirements of Section 8115 of the DoD Appropriations Act, 2008. Section 8115 reads:

SEC. 8115. Notwithstanding any other provision of law, none of the funds made available in this Act may be used to pay negotiated indirect cost rates on a contract, grant, or cooperative agreement (or similar arrangement) entered into by the Department of Defense and an entity in excess of 35 percent of the total cost of the contract, grant, or agreement (or similar arrangement): Provided, That this limitation shall apply only to contracts, grants, or cooperative agreements entered into after the date of the enactment of this Act using funds made available in this Act for fiscal year 2008 for basic research.



Enclosure (1)

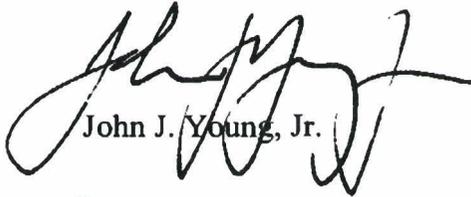
For the purposes of implementing Section 8115:

- Basic Research means funds in programs within Budget Activity 1 of the Research, Development, Test and Evaluation appropriation.
- The restriction on payment of indirect costs applies to all FY 2008 Basic Research appropriations obligated by any award – i.e., procurement contract, grant, cooperative agreement, or any other obligational arrangement – to a non-Federal entity, or awardee.
- The limitation on payment of indirect costs applies to an award entered into at the prime level only and does not flow down to subordinate instruments.
- For the restriction on payment of indirect cost as a percentage of total cost, “total cost” has the meaning given in the Government-wide cost principles that apply to the particular awardee (2 CFR part 220, 225, or 230, or 48 CFR part 31). “Indirect costs” are all costs of a prime award that are Facilities and Administration costs (for awardees subject to the cost principles in 2 CFR part 220) or indirect costs (for awardees subject to the cost principles in 2 CFR part 225 or 230 or 48 CFR part 31).

Please issue direction immediately to affected program and awarding offices to include a:

- Term or condition requiring compliance with Section 8115 in each new award made on or after November 14, 2007, using Basic Research funds made available by the DoD Appropriations Act for FY 2008. Section 8115 does not apply to obligations of FY 2008 funds for awards made before that date.
- Statement requiring compliance with Section 8115 in any document transferring FY 2008 Basic Research funds to another Federal agency for obligation to a non-Federal entity. The statement must require the other agency to include a term or condition, as described in the preceding paragraph, in each new award it makes using those funds.

My points of contact are Dr. Mark Herbst at 703-588-1377, mark.herbst@osd.mil, for grants or cooperative agreements and Mr. Bill Sain at 703-602-0293, bill.sain@osd.mil, for procurement contracts.



John J. Young, Jr.