



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Indirect Cost Rates

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of indirect cost rates for the Office of National Marine Sanctuaries Natural Resource Damage Assessments for fiscal year 2019.

SUMMARY: NOAA's Office of National Marine Sanctuaries (ONMS) announces the establishment of new indirect cost rates for the recovery of indirect costs for its component organizations involved in natural resource damage and restoration activities for fiscal year (FY) 2019. NOAA will apply the indirect cost rate for FY2019 as recommended by Empirical Concepts LLP (Empirical) for each of the ONMS component organizations and the dates of implementation in this notice. The public can obtain more information on this rate from the address provided below in the **FOR FURTHER INFORMATION CONTACT** section.

DATES: This notice is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Vicki Wedell, NOAA Office of National Marine Sanctuaries, 1305 East West Highway, Silver Spring MD 20910, or 240-676-3805, Vicki.Wedell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Natural Resource Damage Assessment (NRDA) mission of ONMS is to restore injuries to sanctuary resources caused by the release of hazardous substances or

oil under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA; 42 U.S.C. 9601 et seq.) or the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 et seq.), or physical injuries under the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 et seq.). NOAA conducts NRDA as a basis for recovering damages from responsible parties and uses the funds recovered to restore injured sanctuary resources.

When addressing NRDA incidents, the costs of the damage assessment are recoverable from individuals and organizations who are potentially liable for an incident. Total costs include both direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific case or other program products. In contrast, indirect costs reflect the costs for activities that collectively support ONMS' mission and operations. For example, indirect costs include general administrative support overheads. Although indirect costs may not be readily traced back to a specific direct activity, indirect costs may be allocated to direct activities using an indirect cost distribution rate.

Consistent with standard Federal accounting requirements, NOAA is required to account for and report the full costs of its programs and activities. Further, NOAA is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA. Within the constraints of these laws, ONMS has the discretion to develop indirect cost rates subject to its requirements.

II. ONMS's Indirect Cost Effort

NOAA contracted Empirical, who subcontracted with the public accounting firm Cotton and Company LLP to: (1) evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and (3) determine the indirect cost rates for the organizations that comprise ONMS.

Empirical concluded that the cost accounting system and allocation practices of ONMS component organizations are consistent with Federal accounting requirements.

Empirical also determined that the most appropriate indirect allocation method was the Direct Labor Cost Base for all ONMS component organizations. The Direct Labor Cost Base is computed by allocating total indirect costs over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor.

Empirical further assessed that the indirect cost rates for the ONMS component organizations were fair and equitable. A report on Empirical's assessment and their determination can be obtained from the person identified in **FOR FURTHER INFORMATION CONTACT** section.

III. ONMS Indirect Cost Rate and Policies for Fiscal Year 2019

NOAA will apply the indirect cost rate for FY2019 as recommended by Empirical for each of the ONMS component organizations as provided in the following table:

ONMS component organization	FY 2019 indirect rate (percent)
Florida Keys National Marine Sanctuary	14.01
Greater Farallones National Marine Sanctuary	4.28
All other National Marine Sanctuaries	0.39

NOAA will apply the FY2019 rates identified in this notice to all damage assessment and restoration case costs incurred from October 1, 2019 until present, using the Direct Labor Cost base allocation methodology. For cases that have settled and for cost claims paid prior to the effective date of the FY in question, NOAA will not re-open any resolved matters for the purpose of applying the rates in this notice. For cases not settled and cost claims not paid prior to the effective date of the FY in question, NOAA will recalculate costs using the rates in this notice. Where a responsible party has agreed to pay costs using previous year's indirect rates, but has not yet made the payment

because the settlement documents are not finalized, the costs will not be recalculated. NOAA will use the FY2019 rates for future fiscal years until year-specific rates are developed.

Authority: 42 U.S.C. 9601 et seq.; 33 U.S.C. 2701 et seq.; 16 U.S.C. 1431 et seq.

John Armor,

Director, Office of National Marine Sanctuaries,

National Ocean Service,

National Oceanic and Atmospheric Administration.

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