

“Management Fee to Fee”

2017 NSF Large Facilities Workshop Presentation



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Presentation Outline:

- Strengthened NSF Business Practices
- Key findings of the NAPA Report on Business Practices
- Addressing NAPA's Recommendation on Management Fee
- Next Steps



Drivers for Strengthened Business Oversight Processes:

- Office of the Inspector General (OIG) Reports focusing on NSF's cost oversight policies and procedures
- Outside Stakeholder interest
- National Academy of Public Administration (NAPA) Report on NSF “Use of Cooperative Agreements to Support Large Scale Investment in Research”
- American Innovation and Competitiveness Act (AICA)
- NSF internal recognition that increased oversight (and documentation) is necessary given the high dollar value and complexity of these awards



Key Areas Strengthened:

- Increased pre-award cost analysis to establish the final award cost
- Increased review of Recipient accounting systems
- New requirements for submission of incurred cost information in a specified format (worksheet) to facilitate incurred cost audits
- New requirements to perform incurred cost audits during award performance (now impacted by AICA) and at award completion
- **New fee policy**
- Increased oversight on contingency estimating and use
- Increased use of independent cost assessments



Key Findings from NAPA Report:

- Academy Panel found that cooperative agreements are the appropriate mechanism to support NSF's development of large-scale research facilities
- Panel recognized the tremendous efforts NSF had undertaken during the prior year to implement new policies and practices that respond to the OIG and congressional concerns
- Panel stated that NSF needs to apply increased emphasis on internal management of the business practices critical to enhancing oversight and project success
- Full Report: http://napawash.org/images/reports/2015/NSF_Phase_2_Comprehensive_Report.pdf



Cooperative Agreements vs. Contracts for Facilities:

- Reference Federal Grant and Cooperative Agreement Act of 1977
- Cooperative Agreements appropriate for most NSF facility efforts:
 - ✓ Work performed under the awards is not for the direct benefit and use of NSF, but rather the scientific community at large
 - ✓ NSF does not construct/operate the facilities directly, but does retain oversight responsibilities (stewardship role)
- Antarctic Program is a notable exception where a contract is used, since work is performed for the direct benefit and use of the United States Government (supports NSF's responsibilities under the Antarctic Treaty)
- Fee policy for NSF cooperative agreements is set forth in Large Facilities Manual (LFM), while fee policy for contracts is set forth in the FAR



NAPA Recommendation to Eliminate Management Fee

- NAPA Report Recommendation 4.3 (pg. 47):
 - Objective: To eliminate the additional management burdens and potential for funding inappropriate expenses posed by management fee
 - Recommendation: NSF should eliminate the practice of including management fee in cooperative agreements in future projects
- NAPA recommended alternatives to providing management fee
 - NSF should consider addressing expenses as indirect costs or through use of award contingency
 - If necessary, NSF could request legislative authority to identify as allowable costs any significant expenses that would not qualify under this approach



Examples of Appropriate Uses of Management Fee

- Working Capital
- Facilities Capital
- Other ordinary and necessary expenses, such as:
 - ✓ Contract terminations and losses
 - ✓ Certain appropriate educational and public outreach activities
 - ✓ University visitor support programs and student exchange programs
 - ✓ Research activities valuable to the scientific pursuits of the organizations but not directly required to support funded programs
 - ✓ Financial incentives to obtain and retain high caliber staff



NSF Actions to Address NAPA Recommendation

- NSF formed a task group with expertise to address viability and efficacy of implementing the NAPA Recommendation
 - Group organized in March 2016. Included expertise from NSF Program Offices, Business Functions, and Office of the General Counsel
 - Group considered a range of options to address expenses in addition to those recommended by NAPA
- NSF updated the NSB on progress at May 8-9 NSB Meeting
 - Analysis to date indicated that expenses could not be addressed as indirect costs or contingency
 - Allowing fee helps ensure competition among qualified organizations
 - NSF would continue to use management fee and complete the analysis of the policy's impacts



Final Findings of Management Fee Group

NAPA Finding: Address management fee expenses through indirect costs or contingency

NSF Response: Analysis confirms that expenses addressed through management fee cannot be effectively met through indirect costs or contingency

Other Findings:

- Eliminating management fee would disadvantage large facility awardees
- Eliminating management fee would have a detrimental effect on incentivizing highly qualified organizations from competing for large facility awards
- NSF's current management fee policy is administratively burdensome on both NSF and awardees
- Even current management fee guidelines do not completely eliminate the risk of funding questionable expenses
- NSF should more broadly consider other approaches to providing fee for these limited number of awards (9)

A note on “burden” and the impact on Recipients...

- Questionnaire provided to NSF Recipients receiving fee in March 2016
- Key inputs received by Recipients included:
 - ✓ Importance of fee to organizations in order to efficiently manage awards
 - ✓ Increased administrative burden and delays in timely determination of fee amounts
 - ✓ Continued ambiguity and risk to organizations in interpreting appropriate fee expenses
 - ✓ Negative impact on morale by reducing funding of legitimate low-cost but morale building expenses
 - ✓ Disadvantages awardees compared to other organizations receiving higher fees for managing large facility awards under contracts



Options Considered by NSF (and briefed to NSB)

1. Adopt fee-types consistent with those typically provided in government contracting
2. Adopt fee-types consistent with those typically provided in government contracting, with additional guidelines to awardees including examples of inappropriate uses of fee. NSF retains authority to require reporting on fee expenditures
3. Continue use of the current NSF management fee policy
4. Continue use of the current management fee policy as a base fee, plus allow flexibility to add additional fee-types with the requirement for awardees to affirm that they will not use fee for prohibited purposes



Option Selected (briefed to NSB)

1. Adopt fee-types consistent with those typically provided in government contracting.
2. Adopt fee-types consistent with those typically provided in government contracting, with additional guidelines to awardees including examples of inappropriate uses of fee. NSF retains authority to require reporting on fee expenditures.
3. Continue use of the current NSF management fee policy.
4. Continue use of the current management fee policy as a base fee, plus allow flexibility to add additional fee-types with the requirement for awardees to affirm that they will not use fee for prohibited purposes.

Next Steps:

- NSF will “adopt fee types consistent with those generally provided in federal government contracting” which includes considering policies in FAR 15.4 on use of a structured approach for determining fee (“weighted guidelines” weights and factors)
- NSF will update guidelines to awardees including examples of inappropriate uses of fee
- NSF will continue to require separate tracking of fee expenses
- NSF will continue to retain authority to consider reductions in fee for non-compliance with guidelines

Next Steps:

- NSF has already updated the Large Facilities Manual to reflect the new policy
- NSF will issue revised implementing procedures and an updated award provision
- NSF will perform additional outreach with Stakeholders and Recipients
- NSF will ensure compliance with AICA
- NSF will address timing issues for roll out of the new policy