

# 2018 LARGE FACILITIES WORKSHOP

## NSF Fee Policy for Major Facility Cooperative Agreements

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## Presentation Outline:

- Context for Strengthened NSF Business Practices
- Reasons for New Fee Policy
- Major Aspects of New Fee Policy
- 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” (Dec. 2015)
- American Innovation and Competitiveness Act (AICA) (Jan. 2017)
- NSF internal recognition that increased oversight (and documentation) 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 (also impacted by AICA) and at award completion
- Better coordination to reduce redundant/overlapping audits/reviews
- **Updated fee policy**
- Increased oversight on contingency estimating and use
- Increased use of independent cost assessments (also impacted by AICA)



# Findings of NSF Management Fee Task Group (2016)

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

NSF Response: Analysis confirmed 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 management fee policy was administratively burdensome on both NSF and awardees
- Even management fee guidelines could 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 in 2016 to NSF Recipients receiving fee
- 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
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# Update – Implementation of New Fee Policy

Key language from AICA Section 110 (e) on Fee:

- It is the sense of Congress that-- (A) the use of taxpayer-funded award fees should be transparent and explicable; and (B) the Foundation should implement an award fee policy that ensures more transparency and accountability in the funding of necessary and appropriate expenses directly related to the construction and operation of major multi-user research facilities
- Reporting and recordkeeping.--The Director of the Foundation shall establish guidelines for awardees regarding inappropriate expenditures associated with all fee types used in cooperative agreements, including for alcoholic beverages, lobbying, meals or entertainment for non- business purposes, non-business travel, and any other purpose the Director determines is inappropriate



# Update – Implementation of New Fee Policy

Key language from fee policy set forth in NSF Large Facilities Manual:

- Fees will be evaluated for reasonableness by the G/AO using a structured approach
- In part, the G/AO may use information such as the negotiation objective set forth in the Cost Proposal Review Document (CPRD) and/or other cost negotiation memo as the basis for selecting the fee type and determining the fee amount
- NSF will also provide guidelines for Recipients that receive fee to encourage the utmost discretion and appropriate consideration in the use of fee, to include examples of inappropriate uses of fee
- NSF will reserve the authority to review a Recipient's actual use of fee
- Recipients must separately track and account for uses of fee
- NSF will consider reductions in future fee if a Recipient's actual use of fee is in contravention with the guidelines on inappropriate uses



# Update – Implementation of New Fee Policy

## Key Aspects of the Implemented Fee Policy:

- NSF's Structured Approach to Evaluating Fee includes multiple considerations:
  - ✓ Fee proposed by the organization
  - ✓ Information on fees historically paid under the award
  - ✓ Information on fees historically paid in supporting similar facilities
  - ✓ NSF's weighted guidelines analysis (similar approach to contracts)
- New approach does not require annual detailed submission of prior fee uses
- New approach allows for establishing fee for longer period than on an annual basis
- Going forward, NSF may consider situations where other fee types may be advantageous (e.g., award fees, incentive fees)



# Update – Implementation of New Fee Policy

## Key Aspects of the Implemented Fee Policy (Cont.):

- To ensure transparency and accountability, expenses directly related to construction and operations are to be addressed as reimbursable costs and not fee. If an organization determines to voluntarily use fee for such expenses, NSF is to be contacted to determine if this approach is appropriate
- Inappropriate fee expenditures are set forth in the fee award term. The list of inappropriate uses may be updated when determined necessary
- Award term re-enforces NSF's authority to review a Recipient's actual use of fee, and reduce future fee if use is in contravention with guidelines for inappropriate use
- The CSB Branch Chief will develop a schedule to perform fee reviews on a periodic basis, and fees may be reduced if it is determined past fees have been used for inappropriate purposes

## Next Steps:

- NSF has been working with Recipients to finalize fee amounts for awards ending in FY 2018 through the previous (management) fee policy
- For ongoing awards, NSF has been working with Recipients to transition to the new fee policy. These awards considered both NSF's prior (management) fee policy for FY 2018, and NSF's new fee policy (structured approach) to establish a reasonable fee for the entire award period (versus incremental annual amounts)
- An updated award term was forwarded for Recipient review and for incorporation into impacted cooperative agreements