



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

## THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

JUN 03 2011

MEMORANDUM FOR SECRETARY OF THE ARMY

ATTN: DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)

ATTN: DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(RESEARCH AND TECHNOLOGY)

SECRETARY OF THE NAVY

ATTN: CHIEF OF NAVAL RESEARCH

ATTN: DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION AND LOGISTICS MANAGEMENT)

SECRETARY OF THE AIR FORCE

ATTN: DEPUTY ASSISTANT SECRETARY OF THE AIR  
FORCE (CONTRACTING)

ATTN: DEPUTY ASSISTANT SECRETARY OF THE AIR  
FORCE (SCIENCE, TECHNOLOGY & ENGINEERING)

ASSISTANT SECRETARY OF DEFENSE FOR NUCLEAR,  
CHEMICAL, AND BIOLOGICAL DEFENSE PROGRAMS  
DIRECTOR, DEFENSE ADVANCED RESEARCH PROJECTS  
AGENCY

DIRECTOR, DEFENSE THREAT REDUCTION AGENCY

DIRECTOR, WASHINGTON HEADQUARTERS SERVICES

SUBJECT: Indirect Cost Limitation for Basic Research Awards

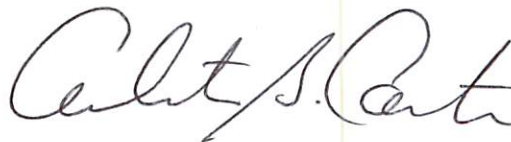
The DoD Appropriations Act of 2011 (P.L. 112-10, Div. A) does not carry forward a limitation that the three preceding appropriations acts applied to reimbursement of indirect costs under grants, cooperative agreements, contracts, or similar arrangements. As summarized in the attached table, prior year appropriations acts limited indirect cost reimbursement rates paid using funds made available in those acts for Basic Research. Obligations that remain subject to the prior year restrictions are those entered into using FY 2008 funds after November 14, 2007, and those that use FY 2009 and 2010 appropriations for Basic Research. Obligations incurred during the period of the Continuing Appropriations Act of 2011 (P.L. 111-242, as amended) are not subject to the limitation, and – by operation of section 107 of that act – such obligations have been charged to the DoD Appropriations Act of 2011.

It remains important for DoD awarding offices to alert recipients and contractors with continuing awards that their use of prior year Basic Research funds continues to be subject to the limitation on indirect cost reimbursement and review by auditors and others to check for compliance with that limitation. Records in the contractor's or recipient's financial management system must be able to identify the sources and applications of funding adequately to demonstrate compliance with the limitation. That could be especially important for a contractor or recipient with an award under which there are both obligations of prior year Basic Research funds that remain subject to the limitation and obligations of FY 2011 Basic Research funds that

are not subject to the limitation. In some cases, being able to demonstrate compliance for the former may require segregation of records for the latter. For the same reason, DoD awarding offices' award terms for those awards must clearly distinguish the obligations to which the limitation applies from those to which it does not.

DoD awarding offices are responsible for determining whether modification of terms and conditions of an existing instrument is necessary or appropriate. Although the indirect cost reimbursement limitation is not imposed by law in FY 2011, activities that procured Basic Research services in FY 2011 using FAR contracts may have contractually established an indirect cost reimbursement rate or limitation during a competitive negotiation, whereas that same circumstance should not exist for an activity that used FY 2011 funds to award a grant for Basic Research. Also, if an award line item is incrementally funded using both FY 2011 funds and prior year funds that are subject to the indirect cost limitation, it may be necessary to keep the line item subject to the existing limitation if it is not feasible to indentify separate sources and applications of funding.

Please disseminate this guidance to all offices that: manage Basic Research programs; award or administer grants, cooperative agreements, contracts, or similar arrangements using Basic Research appropriations; or transfer those appropriations to other organizations for obligation. My point of contact for grants or cooperative agreements is Dr. Mark Herbst at 703-588-1377 and [mark.herbst@osd.mil](mailto:mark.herbst@osd.mil). For procurement contracts, contact Mr. Clyde Wray at 703-602-8387 and [clyde.wray@osd.mil](mailto:clyde.wray@osd.mil).



Ashton B. Carter

Attachment:  
As stated

A. Fiscal Year of funding	B. Appropriation (Treasury Appropriation Fund Symbol) with Budget Activity 1, Basic Research, to which DoD-specific limitation applies	C. Source(s) of DoD-specific limitation	D. Obligations subject to DoD-specific limitation	E. DoD-specific limitation
2008	RDT&E, Army (21 2008 2009 2040) RDT&E, Navy (17 2008 2009 1319) RDT&E, Air Force (57 2008 2009 3600) RDT&E, Defense-wide (97 2008 2009 0400)	Section 8115, DoD Appropriations Act, 2008	Each new award made on or after November 14, 2007	Funds made available for Basic Research may not be used to pay negotiated indirect cost rates on an award (grant, cooperative agreement, contract, or similar arrangement), in excess of 35 percent of the total cost of that award. See DoD implementation in USD(AT&L) memoranda, "Indirect Cost Limitation for Basic Research Awards," dated December 1, 2007, October 28, 2008, and April 5, 2010.
2009	RDT&E, Army (21 2009 2010 2040) RDT&E, Navy (17 2009 2010 1319) RDT&E, Air Force (57 2009 2010 3600) RDT&E, Air Force, Recovery Act (57 2009 2010 3605) RDT&E, Defense-wide (97 2009 2010 0400)	Section 8109, Department of Defense Appropriations Act, 2009 (Division C of Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, P.L. 110-329)	Each new award; and  Each modification adding funding to a continuing award (e.g., incremental funding or exercise of an option) if the award already was subject to the limitation due to the funding originally used to make the award	
2010	RDT&E, Army (21 2010 2011 2040) RDT&E, Navy (17 2010 2011 1319) RDT&E, Air Force (57 2010 2011 3600) RDT&E, Defense-wide (97 2010 2011 0400)	Section 8101, Department of Defense Appropriations Act, 2010 (P.L. 111-118)		
2011	RDT&E, Army (21 2011 2012 2040) RDT&E, Navy (17 2011 2012 1319) RDT&E, Air Force (57 2011 2012 3600) RDT&E, Defense-wide (97 2011 2012 0400)	Section 107, Continuing resolutions (CR) in effect through April 15, 2011 (P. L. 111-242, as amended by P.L. 111-290, 111-317, 111-322, 112-4, 112-6, and 112-8)	No DoD-specific limitation for obligations of FY 2011 appropriations, to include obligations incurred during the CR that subsequently are chargeable to the FY 2011 Appropriations Act pursuant to section 107 of the CR.	None.