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Sponsors:	Crystal Hudson, Diana I. Ayala, Julie Won, Lincoln Restler				
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Int. No. 1262

By Council Members Hudson, Ayala, Won and Restler

A Local Law to amend the administrative code of the city of New York, in relation to indirect costs of nonprofit city service contractors

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 6 of the administrative code of the city of New York is amended by adding a new section 6-148 to read as follows:

§ 6-148 Indirect costs of city service provision. a. Definitions. As used in this section, the following terms have the following meanings:

City chief procurement officer. The term “city chief procurement officer” means the person to whom the mayor has delegated authority to coordinate and oversee the procurement activity of mayoral agency staff, including the agency chief contracting officers and any offices that have oversight responsibility for procurement.

City service contract. The term “city service contract” means any written agreement, except an emergency contract procured pursuant to the procedure set forth in section 315 of the charter, between any person and an agency whereby: (i) an agency is committed to expend or does expend funds; and (ii) the principal purpose of such agreement is to provide human services.

Covered city service contractor. The term “covered city service contractor” means any nonprofit organization that enters into or renews a city service contract with an agency after the effective date of the local law that added this section. Such organization shall be deemed a city service contractor for the duration of the city service contract that the organization enters into.

Indirect cost. The term “indirect cost” means a cost incurred for a common or joint purpose, such as general facilities and administrative costs, which is not readily assignable to a single program, work stream, project, or contract.

NICRA. The term “NICRA” means a negotiated indirect cost rate agreement issued by the federal government in accordance with part 200 of title 2 of the code of federal regulations, regarding uniform administrative requirements, cost principles, and audit requirements for federal awards, or a successor provision.

Nonprofit organization. The term “nonprofit organization” means an entity that is either incorporated as a not-for-profit corporation under the laws of the state of its incorporation or exempt from federal income tax pursuant to subdivision c of section 501 of the internal revenue code.

b. The city chief procurement officer and the director of the office of management and budget, or another officer or agency head designated by the mayor, in consultation with the executive director of the office of not-for-profit organization services, shall develop a methodology pursuant to which nonprofit organizations may calculate the indirect costs associated with the delivery of services pursuant to a city service contract. The methodology shall also allow organizations to establish an indirect cost rate pursuant to the terms of subdivision c of this section. Such methodology and any related materials, including any applicable guidelines,

shall be made available on the website of the office of not-for-profit organization services.

c. As an alternative to calculating indirect costs pursuant to the methodology established in subdivision b of this section, a nonprofit organization may elect to establish an indirect cost rate by using:

1. A de minimis indirect cost rate of 20 percent of direct project costs;

2. An indirect cost rate received by the nonprofit organization pursuant to a NICRA or extension thereto that is in effect as of the effective date of the city service contract; or

3. An indirect cost rate received by the nonprofit organization pursuant to an agreement or extension thereto that is (i) in effect as of the effective date of the city service contract and (ii) with one of the contracting entities identified pursuant to subdivision d of this section.

d. The city chief procurement officer and the director of the office of management and budget, or another officer or agency head designated by the mayor, in consultation with the executive director of the office of not-for-profit organization services, shall develop a list of federal, state, or other contracting entities that approve indirect cost rates for nonprofit organizations, and whose approved rates may be accepted pursuant to paragraph 3 of subdivision c of this section.

e. The list required pursuant to subdivision d of this section and any relevant guidelines for establishing an indirect cost rate pursuant to subdivision c of this section shall be included with the related materials published pursuant to subdivision b of this section and shall be reviewed and updated at a minimum every 5 years.

f. The contracting agency or another officer or agency designated by the mayor shall reimburse indirect costs incurred by covered city service contractors in the amounts determined in accordance with the methodology developed pursuant to subdivision b of this section.

g. The website of each agency shall provide a link to the methodology and any related materials developed and published pursuant to subdivision b of this section.

§ 2. This local law takes effect 45 days after it becomes law.

JLB
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