

STATE OF NEW HAMPSHIRE

Executive Council

JOHN STEPHEN
EXECUTIVE COUNCILOR
DISTRICT FOUR
WWW.NH.GOV/COUNCIL



STATE HOUSE ROOM 207
107 NORTH MAIN STREET
CONCORD, NH 03301
(603) 271-3632

March 13, 2025

Attorney General John Formella
Department of Justice
1 Granite Place South
Concord, NH 03301

Dear General,

This is a follow up to our conversation at the March 12, 2025 Governor and Council meeting, relating to the issue of Indirect costs in Federal grants, especially grants that come through the Department of Health and Human Services.

As you know, I questioned one of the contracts yesterday at the G & C meeting because I do not believe we – the State of NH – should be paying a contractor an indirect rate in excess of 10%, in most cases. That is a threshold I used to use when I was Commissioner of DHHS. A 10% indirect is not a small amount when you take into consideration the cost of some of these Federal contracts that come before the Council.

From my recollection at the meeting, when I questioned Item # 15 where the indirect cost rate for the selected vendor (JSI) was in excess of 20%, I was told by the Departments financial representative that this rate was required under the Federal program and that the State had no choice but to accept. I find that unusual and, in my opinion, at odds with what the taxpayers of this state would consider value.

Specifically, starting on the G & C meeting of March 12th recording at 1:03:10

<https://www.sos.nh.gov/administration/governor-executive-council/meetings>, the DHHS representative stated the following:

- Federal Uniform Guidance was updated on 10/20/2024 and set the de minimis rate at 15% for indirect costs
- Negotiated Indirect Cost Rate Agreement (NICRA) is a legal document that sets the rate at which the federal government pays a nonprofit for indirect costs
- 2CFR200 414 & 332 were cited as requiring States to accept the NICRA rate therefore the State cannot negotiate that rate with providers

The representative also mentioned that this standard was set by the Office of Management and Budget.

Again, I find it hard to believe that the Federal government is dictating to the state what the exact indirect is that should be imposed on any vendor, non-profit or for profit. Additionally, if this is the case, we were informed that this policy was issued in October of 2024, which was under a different Administration than the current one.

In any event, this indirect cost issue will continue to come up in future contracts and I believe I have been elected to protect the taxpayers as much as ensure that there are enough dollars to cover all the indirect costs and more, of any chosen vendor. I would request clarification from your office as soon as possible, not only under these DHHS Federal grants but any future Federal grants that we accept for spending. If it is true that this was an October 2024 policy, did that only apply to certain grants and, if so, does that same policy apply to this current Administration? If it does, can states looking to reduce unnecessary spending opt not to follow any indirect threshold or mandate, and apply federal funds to actual and DIRECT services? What happens in the case of Workforce Investment Opportunity Act funds? What about highway funds? Does this minimum threshold that was testified to today by the DHHS CFO apply to ALL federal funds?

I appreciate your offices research and response to my memo and I know that this issue will also benefit the Council in its entirety when reviewing future agency contracts.

Thank you for your assistance.

Sincerely,



John Stephen
Executive Councilor
State of New Hampshire
District Four