



**DEPARTMENT OF THE NAVY**  
 OFFICE OF NAVAL RESEARCH  
 875 NORTH RANDOLPH STREET  
 SUITE 1425  
 ARLINGTON, VA 22203-1995

IN REPLY REFER TO:

Agreement Date: April 1, 2009

## NEGOTIATION AGREEMENT

Institution: **WOODS HOLE OCEANOGRAPHIC INSTITUTION**  
**WOODS HOLE, MASSACHUSETTS 02543**

The Indirect Cost and Fringe Benefit rates contained herein are for use on all grants and/or contracts issued or awarded to the Woods Hole Oceanographic Institution (WHOI) by all Federal agencies of the United States of America in accordance with the cost principles mandated by 2 CFR Part 230 – formerly Office of Management and Budget (OMB) Circular A-122. These rates shall be used for forward pricing and billing purposes for WHOI for Fiscal Year 2009. This rate agreement supersedes all previous rate agreements/determinations for Fiscal Year 2009 (FY 09).

### SECTION I: RATES - TYPE: FIXED WITH CARRY-FORWARD PROVISIONS (FIXED)

<u>Type</u>	<u>Expense Pool</u>	<u>Effective Period</u>		<u>Rate</u>	<u>Base</u>	<u>Applied To</u>
		<u>From</u>	<u>To</u>			
<b><u>Indirect Cost Rates:</u></b>						
Fixed	Lab OH	1/1/09	12/31/09	56.35%	(a)	Research
Fixed	G&A	1/1/09	12/31/09	30.00%	(b)	Research
<b><u>Fringe Benefits Rates:</u></b>						
Fixed	Fringe (Reg)	1/1/09	12/31/09	61.05%	(c)	All Activities
Fixed	Fringe (Reg OT)	1/1/09	12/31/09	31.33%	(d)	All Activities
Fixed	Fringe (Casual)	1/1/09	12/31/09	9.15%	(e)	All Activities
Fixed	Fringe (Casual OT)	1/1/09	12/31/09	9.07%	(f)	All Activities
Fixed	Cruise Leave	1/1/09	12/31/09	9.85%	(g)	All Activities

### DISTRIBUTION BASES

- (a) Direct research and education salaries plus related Employee Benefits plus one half of Graduate Research Assistant salaries.
- (b) Direct salaries plus related Employee Benefits incurred for Research, Education, Ship Operations (including submersibles).
- (c) Total assignable salaries of regular employees (direct and indirect) excluding Graduate Research Assistants and overtime salaries.
- (d) Total assignable overtime salaries of regular employees.

(e) Total assignable salaries of casual employees (direct and indirect) excluding Graduate Research Assistants and overtime salaries.

(f) Total assignable overtime salaries of casual employees.

(g) Total assignable cruise leave salaries of regular employees.

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## **SECTION II - GENERAL TERMS AND CONDITIONS**

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**A. LIMITATIONS:** Use of the rates set forth under Section I is subject to any statutory or administrative limitations and is applicable to a given grant, contract or other agreement only to the extent that funds are available and consistent with any and all limitations of cost clauses or provisions, if any, contained therein. Acceptance of the rates agreed to herein is predicated upon all of the following conditions: (1) that no costs other than those incurred by the grantee/contractor were included in this indirect cost pool as finally accepted and that such costs are legal obligations of the grantee/contractor and allowable under governing cost principles; (2) that the same costs that have been treated as indirect costs are not claimed as direct costs; (3) that similar types of costs have been accorded consistent accounting treatment; and (4) that the information provided by the grantee/contractor, which was used as the basis for acceptance of the rates agreed to herein and expressly relied upon by the Government in negotiating and accepting the said rates, is not subsequently found to be materially incomplete or inaccurate.

**B. ACCOUNTING CHANGES:** The rates contained in Section I of this agreement are based on the accounting system in effect at the time the agreement was negotiated. Changes to the method(s) of accounting for costs which affect the amount of reimbursement resulting from the use of these rates require the written approval of the authorized representative of the cognizant negotiating agency for the Government prior to implementation of any such changes. Such changes include but are not limited to changes in the charging of a particular type of costs from indirect to direct. Failure to obtain such approval may result in subsequent cost disallowances.

**C. USE BY OTHER FEDERAL AGENCIES:** The rates set forth in Section I hereof were negotiated in accordance with and under the authority set forth in 2 CFR Part 230. Accordingly, such rates shall be applied to the extent provided in such regulation to grants and contracts to which 2 CFR Part 230 is applicable, subject to any limitations in part A of this section. Copies of this document may be provided by either party to other Federal agencies which have or intend to issue or award grants and contracts using these rates or to otherwise provide such agencies with documentary notice of this agreement and its terms and conditions.

**D. FIXED RATES WITH CARRY-FORWARD PROVISIONS:**

1. This type of rate is considered final and not subject to adjustment in accordance with the provisions of 2 CFR Part 230 and the Federal Acquisition Regulation, subject to the limitations contained in Part A of this Section; except that the difference between the estimated costs and the actual costs of the period covered by

the rate is carried forward as an adjustment to the rate computation of a subsequent period as discussed in paragraph 2. below.

2. The FY 2009 rates contained in this agreement are based on estimates of the costs for FY 2009. When actual costs for FY 2009 are determined, adjustments will be applied to the next subsequent rate negotiation to recognize the differences between the estimated FY 2009 costs used to establish the FY 2009 fixed rates with carry-forward provisions and the negotiated actual FY 2009 costs.

**E. LIQUIDATION OF PRIOR YEAR CARRY-FORWARD AMOUNTS:** The fixed rates set forth herein include the liquidation of the following carry-forward amounts:

<b>RateCategory</b>	<b>Liquidated in FY 2009 Fixed Rates</b>
<b>INDIRECT COSTS:</b>	
Lab Overhead – FY05 <i>Estimated</i>	\$ 50,490
Lab Overhead – FY06 <i>Estimated</i>	\$ 674,962
G&A – FY05 <i>Estimated</i>	\$ (943,953)
G&A – FY06 <i>Estimated</i>	\$ 6,055
<b>EMPLOYEE BENEFITS:</b>	
Regular – FY05 <i>Estimated</i>	\$ (254,836)
Regular – FY06 <i>Estimated</i>	\$ (132,293)
Casual – FY05 <i>Estimated</i>	\$ (1,617)
Casual – FY06 <i>Estimated</i>	\$ (4,510)
Regular Overtime – FY05 <i>Estimated</i>	\$ (13,040)
Regular Overtime – FY06 <i>Estimated</i>	\$ (2,503)
Casual Overtime – FY05 <i>Estimated</i>	\$ (47)
Casual Overtime – FY06 <i>Estimated</i>	\$ (3)

\*CFW = Carry-Forward; WHOI (Over) / Under Recovery

**F. SPECIAL REMARKS – FRINGE RATES:** From FY1986 through FY1994 the Institution set aside accrual funding to cover the estimated current and future costs of its Supplemental Employee Retirement Plan (SERP). The rates set forth herein are predicated on the Government's agreement to accept its pro rata share of the accrued expense accumulated from the inception of the Institution's SERP through 31 December 1994, provided that:

1. As of 1 January 1995 the accrued balance (including accumulated interest) in the SERP fund shall be placed in a separate account where its use will be restricted to the payment of supplemental employee retirement costs;

2. Future interest earned on the SERP fund balance will remain in the SERP fund.

3. The Institution will use the SERP fund (including accumulated and future interest) to pay SERP costs, and will add to the fund only if it becomes exhausted due to payment of supplemental employee retirement benefits as defined in the SERP.

4. If the SERP fund becomes exhausted before all supplemental employee retirement costs have been paid, the Institution will make further payments to the SERP fund on a Pay-As-You-Go basis; and


5. The Government shall receive a pro rata refund of any balance remaining in the SERP fund at the conclusion or termination of the SERP.

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The purpose of this agreement is to establish fixed rates with carry-forward provisions for the period January 1 – December 31, 2009. These rates are based on Woods Hole Oceanographic Institution's proposal dated October 23, 2008, and the establishment of these rates by the Government based on the accounting systems and allocation methodologies contained in this proposal does not represent an agreement that these systems and methodologies are accepted for Fiscal Year 2009 or for any subsequent year's rate negotiation. The recommendations of the Defense Contract Audit Agency, Boston Branch in Audit Report #2171-2009N23000001 dated December 5, 2008, were considered in the negotiation of these rates.

Acceptance:

WOODS HOLE OCEANOGRAPHIC  
INSTITUTION:

  
CAROLYN BUNKER  
Vice President for Finance  
and Administration

4/2/09  
Date

FOR THE U.S GOVERNMENT:

  
DEBORAH K. RAFI  
Contracting Officer

4/2/09  
Date

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For information concerning  
this agreement contact:

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