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Understanding 2024 OMB 2 CFR 200 Uniform Guidance Changes

Wednesday, October 16, 2024



CPAs & ADVISORS

Tricia Katebini, CPA, MBA
Partner

John McIntosh, CPA
Senior Manager

Mac Lillard, CPA
Senior Manager

Andrew Deyhle
Manager

Presenters

Meet the instructors



John McIntosh



Mac Lillard



Tricia Katebini



Andrew Deyhle





Housekeeping

Additional Information

Learning Objective To provide attendees with a road map on recent OMB updates.	Instructional Delivery Methods Group Internet-based
Recommended CPE 1 CPE Credit	Recommended Fields of Study Specialized Knowledge
Prerequisites None required	Advance Preparation None
Program Level Basic	Course Registration Requirements None
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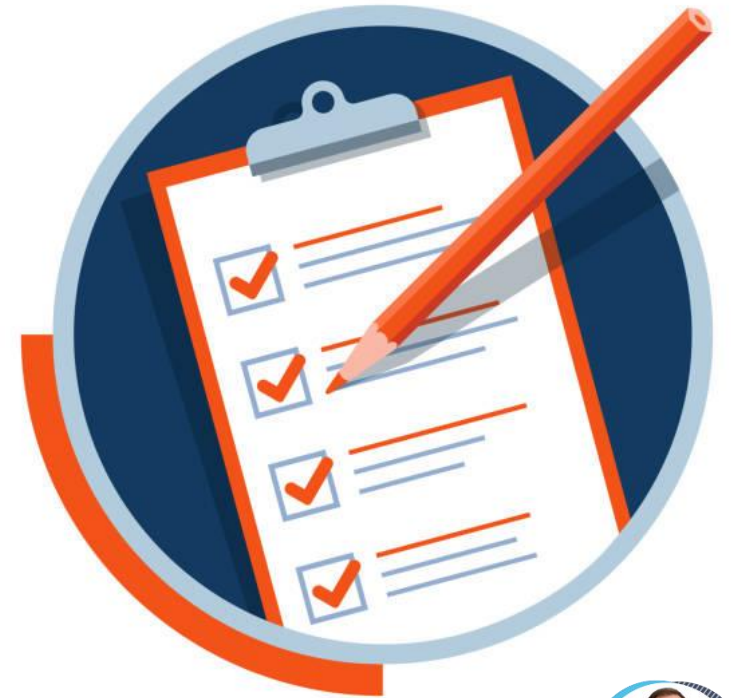
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OMB 2024 Topics for Today

1. Overview of Uniform Guidance/Single Audits
2. Updates to Uniform Guidance
3. Preparations
4. Cybersecurity Considerations



Uniform Guidance and Single Audits

Overview and Recap



What is the Uniform Guidance (2 CFR Part 200)?

- Regulations that provides a government-wide framework for grants management (2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- Issued by the Office of Management and Budget (OMB) in December 2013
- Applies to federal awards to non-federal entities
- To standardize how non-federal entities manage federal awards
- ecfr.gov



Components of the Guidance

- Subpart A Acronyms and Definitions
- Subpart B General Provisions
- Subpart C Pre-Federal Award Requirements and Contents of Federal Awards
- Subpart D Post Federal Award Requirements
- Subpart E Cost Principles
- Subpart F Audit Requirements



Polling Question #1

Is your organization subject to the Uniform Guidance (note: this does not mean a Single Audit only; if you receive any federally sourced funds, most likely your organization is subject to UG!)?

- A. *Yes*
- B. *No*
- C. *Unsure*
- D. *I am also an auditor*

Updates to Uniform Guidance



What is changing?

- On April 4, 2024, the OMB issued the revised OMB Guidance for Grants and Agreements
 - OMB Guidance for Federal Financial Assistance.
- Pre-publication version of final revisions can be found a CFO.gov
 - (google cfr200 2024 revisions)
- Key goals of the 2024 revision:
 - Increase Access to Funding
 - Improve Oversight and Accountability
 - Align with National Priorities



Effective Date of Revisions

- **October 1, 2024**
 - Specifically for awards issued on or after that date
 - Existing awards would require a modification from the donor to qualify for the revisions.
 - Indicate applicability by award on your SEFA!
- Subpart F revisions applicable to fiscal years beginning on or after October 1



Key Changes in Terminology

- “Non-federal entity” → “Recipient”
- “Grants and agreements” → “Federal financial assistance”



Subpart A Acronyms and Definitions § 200.1

Definitions

- Equipment
 - Generally defined as tangible personal property with a useful life of more than one year and a per-unit acquisition cost of \$5,000 or more – now increased to \$10,000
 - Provides a distinction between equipment and supplies
 - Equipment, being durable (long lasting) and above the capitalization threshold, is distinct from supplies, which are typically consumed within a short period.
 - Disposition of equipment increased from \$5,000 to \$10,000
 - Current fair market value
 - Same \$10,000 threshold applies to supplies, but its total value instead of per unit value
 - Avoids risk of recipient “Stockpiling”

Subpart A Acronyms and Definitions § 200.1

Definitions (Cont.)

- Modified Total Direct Costs
 - Subaward Exclusions - increased definitional threshold for up to \$50,000 (previously \$25,000) of each subaward
 - “Programmatic Decision Making”
- Questioned Costs - clarify the definition of questioned costs (costs disallowed by audit)
 - Currently defined as costs charged to a federal award that:
 - Not allowable under the relevant cost principles
 - Lack adequate supporting documentation
 - Appear unreasonable or unnecessary

Subpart B General Provisions

- § 200.113 Mandatory disclosures
 - Report violations of Federal criminal law involving fraud, bribery or significant violations of the law when there is “Credible evidence”
- Conflicts of interest – expanded to include “Organizational conflicts”
 - Include Board Members in COI policy
- Provided additional flexibilities with regard to using a language other than English



Subpart C Pre-Federal Award Requirements and Contents of Federal Awards

- Revisions aim to clarify and streamline the use of fixed-cost (or fixed-amount) awards
 - Clarifies that unexpended funds may be retained if the program objectives and milestones have been achieved
 - Clarifies that fixed awards are not subject to audit (Not included on SEFA)
 - Increased fixed amount award subaward threshold from \$250k to \$500k
- Notice of Funding Opportunity (NOFO)
 - Emphasized plain language and clearly communicating requirements
 - Must include an executive summary and a limit on the length

Subpart D Post Federal Award Requirements

- § 200.318 General procurement standards -Modified procurement standards to remove geographic preference
- § 200.320 Methods of procurement to be followed - Change in terminology to be consistent with standard terminology to change “small purchases” to “simplified acquisitions”
- § 200.328 Financial reporting - ‘The Federal awarding agency must require only’ OMB-approved “government-wide” data elements “on recipient” financial “reports.” Financial reports may not be collected more frequently than quarterly

Subpart D Post Federal Award Requirements (Cont.)

- § 200.331 Subrecipient and contractor determinations -
Emphasized that pass-through entities are responsible for subrecipient and contractor determinations
 - Emphasis was noted on the need for the pass-through entity to exercise judgment in classifying each agreement as a subaward or a procurement contract.
 - Subrecipient → Pre-award assessment/Monitoring
 - Subcontractor → Procurement



Polling Question #2

Which of the following would be considered an attribute of a Subrecipient?

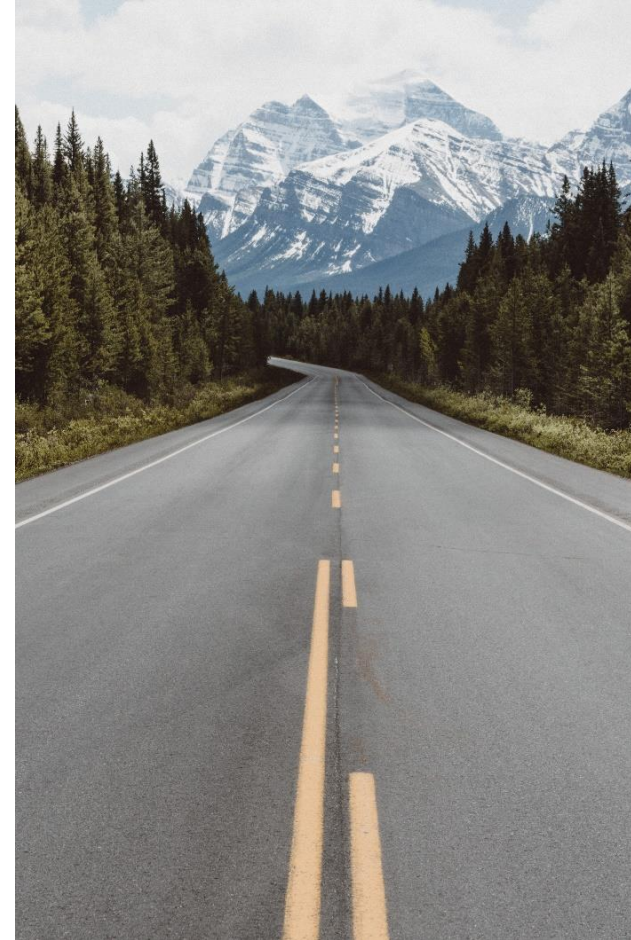
- A. *Has programmatic decision making and acts as an extension of the program.*
- B. *Completes specific tasks/ milestones as required by the contract*
- C. *Unsure*

Subpart E Cost Principles

- § 200.407 Prior written approval (prior approval) - Removal of nine categories
 - 1. Use of Grant Agreements
 - 2. Real Property
 - 3. Equipment
 - 4. Direct Costs
 - 5. Entertainment Costs
 - 6. Memberships
 - 7. Participant Support Costs
 - 8. Selling and Marketing
 - 9. Taxes (Including VAT)
- Prior approval for Foreign Currency Fluctuations was retained

Subpart E Cost Principles (Cont.)

- § 200.414 Indirect (F&A) costs
 - Increased De minimis indirect rate from 10% to 15%
 - Cannot elect De minimis if a NICRA is in place!
 - NICRAs must be accepted by all federal agencies
 - pass-through entities must accept all federally negotiated indirect cost rates for subrecipients



Subpart F Audit Requirements

- Increased Single Audit and Major Program threshold from \$750,000 to \$1,000,000
- § 200.512 Report submission - Guidance added to allow cognizant agency to authorize an extension when the nine-month timeframe would place an undue burden on the auditee



Preparations



What do recipients need to do now?

- In many sections, Uniform Guidance states that a recipient must have “written” or “documented” policies and procedures that address a specific requirement. Review your internal controls and policies.
- Understand the effective dates and implementation of specific provisions for maintaining compliance
- Enhance training and awareness for staff and relevant stakeholders to ensure they understand the implications of the revisions
- If considering a change from a NICRA to the de minimis rate, speak with your oversight agency program officer to determine the best plan of action for timing purposes
- Collaborate with your auditor on the impact of these changes to ensure a smooth transition and avoid potential findings during your next Single Audit.

Review procurement updates to stay compliant

- Include “veteran-owned businesses” in contract prisonizations (§ 200.321).
- Updated “affirmative steps must be taken” to “when possible, the recipient or subrecipient should ensure” in relation to using small businesses, minority businesses, women’s business enterprises, veteran-owned businesses, and labor surplus area firms (§ 200.321).
- Change “small purchases” terminology to “simplified acquisitions” (§ 200.320(2)).
- Remove restrictions related to geographic preference requirements and allow for scoring mechanisms to evaluate bidders committing to U.S. jobs and certain compensation and benefits (§ 200.319).
- Prioritize environmentally sustainable products and services (§ 200.323(b)). This includes consideration of reused, refurbished, and recycled products; biobased or energy and water efficient acquisitions; and purchasing compostable items.

Procurement

1. Written, formalized procurement policy must, at a minimum, follow the guidelines of Uniform Guidance for federally sourced awards.
2. If the policy is more restrictive than the Uniform Guidance, then the non-federal entity must follow the more restrictive guidelines.
3. UG methods:

Micropurchases	Sealed bids
Simplified acquisitions	RFPs
Noncompetitive	

Documentation of Approvals



“If I can’t **see** that it happened,
it didn’t happen!”

- Says every auditor

Polling Question #3

What Information Technology / Cybersecurity framework does your organization follow (check all that apply)?

- *National Institute of Standards and Technology (NIST)*
- *International Organization for Standardization (ISO)*
- *Committee of Sponsoring Organizations of the Treadway Commission (COSO)*
- *Center for Internet Security (CIS)*
- *Cybersecurity Maturity Model Certification (CMMS)*
- *Federal Information Security Management Act (FISMA)*
- *Other*



Uniform Guidance Cybersecurity and Information Technology Considerations



High-Level Overview of Changes



Code of Federal Regulations

A point in time eCFR system



Title 2

- 200.206(b)(2) Federal awarding agency review of risk posed by applicants: Pre-award requirements will include an agencies assessment of cyber security risks for recipients.
- 200.303(e) Internal Controls: Now includes internal controls over cybersecurity
- 200.413(b) Direct Costs: Cybersecurity, if specific to the award, may be a direct cost



200.206(b)(2) Federal awarding agency review of risk posed by applicants:



Requires Federal Agencies to have a formal risk evaluation process for Federal award applications



Does not specifically state cybersecurity but makes reference to “Management systems and standards” which is inclusive of information systems policies and procedures.



Based on results of risk assessment, awarding agencies may enforce additional monitoring and evaluation requirements over the life of the award.



200.303(e) Internal Controls

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “[Standards for Internal Control in the Federal Government](#)” issued by the Comptroller General of the United States or the “[Internal Control Integrated Framework](#)”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.
- TLDR: organizations should adhere to either of the above frameworks for evaluating and monitoring risks. Both frameworks emphasize the importance of formal policies and procedures to support the design of the information system infrastructure and controls at the entity-wide, system and application levels. General controls include security management, logical and physical access, configuration management, segregation of duties, and contingency planning.



[Internal Control - Integrated Framework Executive Summary](#)



200.413(b) Direct Costs

(b) Application to Federal awards. Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of Federal awards. Typical costs charged directly to a Federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and other items of expense incurred for the Federal award. **If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also be considered direct costs.** Examples include extraordinary utility consumption, the cost of materials supplied from stock or services rendered by specialized facilities, **cybersecurity, integrated data systems**, program evaluation costs, or other institutional service operations.



Historically, information technology and cybersecurity costs have been treated as indirect costs, however, if related to a specific award, these costs can be charged directly.

For example, if the organization has an office space that supports 1 specific program, the cybersecurity and information technology costs may be able to be charged based on a reasonable allocation methodology to the federal award.

If your organization has to supply portable laptops/tablets to staff in the field, the ongoing cybersecurity costs to protect and secure those devices may be able to be charged to the grant.



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Serving clients across the globe
301-951-9090 | www.grfcpa.com



John McIntosh

jmcintosh@grfcpa.com



Mac Lillard

mlillard@grfcpa.com



Tricia Katebini

tkatebini@grfcpa.com



Andrew Deyhle

adeyhle@grfcpa.com



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