Federal Rules for Sponsored Programs

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200

Uniform Guidance (UG)
The Basics

Presented by Dan Evon
Director of Contract and Grant Administration
Uniform Guidance
2 CFR Part 200
Effective 12/26/2014

- Grants Reform History
  Circulars!

2 CFR 200

A-21 Cost Principles for IHE (MSU)
A-110 Financial Mgt Standards for IHE
A-133 Single Audit Requirements
A-89 Catalog of Federal Domestic Assistance (CFDA’s) now FAIN
A-102 Grants with State & Local Gov.
A-50 Audit Follow-up & Resolution
A-122 Cost Principles for Non-Profits
A-87 Cost Principles for State, Local …
Uniform Guidance 2 CFR 200

Reduce fraud, waste and abuse

Streamline Process

• New UG has more prior approval requirements that the old Circular See 200.407 Prior written approvals

• However, wait for the Research Terms & Conditions
Uniform Guidance 2 CFR 200

• The UG provides the framework for each federal agency to issue in their own implementing regulations or policies
  • NIH Grants Policy Statement
  • NSF Proposal and Award Policy & Procedure Guide
  • USDE EDGAR
• Final OMB Technical Corrections – this summer?
• Research Terms and Conditions -
  • Defines which prior approval requirements are waived
  • Clericals & Admin, Fixed Amount Awards, Sub Awards, etc.
UG Outline – By The Numbers

http://www.ecfr.gov/cgi-bin/text-idx?SID=f08c044d0c4df01c2730be4234654060&mc=true&node=pt2.1.200&rgn=div5#_top

Subpart A .00’s Acronyms and Definitions
Subpart B .100’s General Provisions
Subpart C .200’s Pre-award Requirements & Contents of Federal Awards
Subpart D .300’s Post Federal Award Requirements
Subpart E .400’s Cost Principles
Subpart F .500’s Audit Requirements

Appendices I Funding Opportunities, II Contract Provisions, III Indirect Costs (F&A)
Subpart A - Definitions

200.24 Cooperative agreement
• Means a legal instrument … not to acquire property or services for the governments benefit
• Is distinguished from a grant .. Substantial involvement of the federal agency

200.33 Equipment
• MTDC Tangible personal property having a useful life of more than one year and per-unit acquisition costs … of $5,000
Subpart A - Definitions

200.68 Modified Total Direct Costs (MTDC)

- **MTDC** means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance of the subawards under the award).

- **MTDC excludes** equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000.

- Other items may only be excluded …to avoid a serious inequity… and with the approval of F&A cognizant.
Subpart A - Definitions

200.75 Participant Support Costs
• Costs for stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

200.84 Questioned cost
• Questioned by an auditor because
  • Violation, or possible violation of a statute, regulation or term and condition
  • Not supported by adequate documentation
  • Costs appear to be unreasonable and do not reflect the actions of a prudent person
Subpart B - General Provisions

200.100 Purpose

- Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in §§ 200.102 Exceptions and 200.210 Information contained in a Federal award, or unless specifically required by Federal statute, regulation, or Executive Order.

200.113 Mandatory disclosures

- Must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
Subpart C - Pre-Award Provisions

200.201 Use of grant agreements including fixed amount awards), cooperative agreement, and contracts

• (b) ...pass-through entities as permitted to use fixed amount awards

• Cannot be used if include cost sharing

• Limited to Simplified Acquisition Threshold $150k

200.203 Notices of funding opportunities

• (b) The Federal awarding agency must general make all funding opportunities available for at least 60 days.
Subpart D - Post-Award Provisions

200.305 Payment

- (b)(3) …pass-through entities must make payment within 30 calendar days after receipt of billing

200.306 Cost sharing or matching

- (a) …It cannot be used as a factor during the merit review, but may be considered if … specified in notice of funding

- (b)(4) [costs] are allowable [if] under Subsection E – Cost Principles

- (e) Volunteer services – rates similar to work plus fringes

- (f) third-party – paid rates, fringes and indirect costs
Subpart D - Post-Award Provisions

200.308 (c) Revision of budget and program

• (1) Change in scope
• (2) Change in key person
• (3) disengagement more then 3 months or 25 % reduction of principal investigator (PI)
• (4) Costs that require prior approval
• (5) transfers amounts budgeted for participant support costs
• (6) subawarding
• (7) changes to the amount approved for cost sharing
Subpart D - Post-Award Provisions

200.313 Equipment

- (a) Title … vest upon acquisition with non-federal entity
- (c) Use … When no longer needed for the original program, it may be used for other activities supported by same federal agency in the following order of priority:
  - Same federal agency
  - Other federal agencies
  - As trade-in

- (e) Disposition
  - If exempt – no further obligation
  - If not exempt – request disposition instructions from agency 120 days
  - If > $5k return to agency in proportion to fed % of funding
Subpart D - Post-Award Provisions

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Procurement 200.320 (grace period until July, 2016)

1. **Micro Purchases**
   - $3k
   - No quotations
   - Equitable distributions

2. **Small Purchases**
   - Up to $150k
   - Rate quotations
   - Cost or price analysis required

3. **Sealed Bids**
   - >$150k
   - Construction Projects
   - Price major factor
   - Fixed price or cost reimbursement
   - RFP with evaluation methods

4. **Competitive Proposals**
   - >$150k
   - Fixed price or cost reimbursement
   - RFP with evaluation methods

5. **Sole Source**
   - Unique
   - Public emergency
   - Authorized by agency (or PTE)
   - No competition
UG – Subpart D - Post-Award Provisions

200.333 Record Retention
- Financial and supporting documents … three years from the date of submission of the final expenditure report
- (a) if any litigation, claim or audit … must be retained until all litigation or audit finding have been resolved

200.343 Closeout
- (a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance and other reports
  - NIH has changed the close out to 120 days for awards made after October 2014.
  - Wait for Research Terms and Conditions
UG – Subpart E - Cost Principles

• **200.401 Application**
  - Must be used as a guide in the pricing of fixed-price contracts

• **200.403 Allowability of costs**
  - (a) Necessary and Reasonable
  - (b) Conform to T&C of the award
  - (c) Consistent with MSU policy
  - (d) Consistent with F&A calculations – clerical & admin
  - (e) Follow industry standards (GAAP)
  - (f) Not be used as cost sharing or match
  - (g) Have adequate documentation
UG – Subpart E - Cost Principles

• 200.404 Reasonable Cost
  • Does not exceed that which would be incurred by a prudent person under similar circumstances
  • Purchase followed sound business practices
  • Arms-length transaction
  • Did the purchase follow institutional policy?
UG – Subpart E - Cost Principles

• 200.405 Allocable costs
  
  • (d) Costs split between accounts based on relative benefit(s) received
  
  • (d) If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis
  
  • Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.
UG – Subpart E - Cost Principles

• 200.413 Direct Cost
  • Can be identified specifically with a particular sponsored project...relatively easily with a high degree of accuracy.
  • Examples: salary, supplies, travel, participant payments, data collection costs, etc.
  • Clerical and Admin are usually F&A but if

• 200.414 Indirect (F&A) Costs - Facilities and Administrative/Overhead/Indirect Costs (F&A, OH, IDC). All mean the same thing.
  • Necessary costs that are not easily attributable specifically to the project.
  • (f) de minimis rate of 10% for those without approved F&A rate – NIH still keeps 8% for int’l sub-awards
UG – Subpart E - Cost Principles

• 200.415 Required Certifications
  • By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.

• 200.423 Alcoholic beverages – unallowable

• 200.426 Bad debts - unallowable

• 200.431 Fringe Benefits – terminal leave?
  • Severance pay?
UG – Subpart E - Cost Principles

• 200.431 Fringe Benefits
  • Severance pay – allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-Federal entity's part, or (d) circumstances of the particular employment

• 200.432 Conferences – allowable for dissemination of tech information beyond the non-Federal entity

• 200.440 Exchange rates – Changed from original 12/2013 UG version – now does not need prior approval unless it results in the need for additional funds or a change in project scope
UG – Subpart E - Cost Principles

• 200.453 Material and supplies including computing devices
  • Allowable to projects if essential and allocable, but not solely dedicated to the award

• 200.458 Pre-award costs – allowable to the extent they would have been allowable – with agency approval – see RTC

• 200.474 Travel costs – allowable if we consistently follow our policy
  • MSU paying for federal employee travel requires agency approval
  • Temporary dependent care – above and beyond regular
Subpart F – Audit Requirements 200.501-521

• Increase of the Single Audit Threshold from $500,000 (current threshold) to $750,000.

• Seven of the current compliance requirements for the A-133 audit have been eliminated. These include: the Davis Bacon Act, Equipment and Real Property Management, Level of Effort and Earmarking, Period of Availability, Procurement, Suspension and Debarment, Program Income and Relocation Assistance.

• OMB to develop specific audit procedures with the specific focus on helping to reduce fraud, waste, abuse and improper payments.
Subpart F – Audit Requirements 200.501-521

• More detail will be required for audit findings to ensure Auditee is able to adequately prepare a Corrective Action Plan and take corrective action, and Federal agencies and pass-through entities are able to arrive at management decisions.

• The questioned cost threshold for reporting increased from $10,000 to $25,000.

• Adds requirement for summary schedule of prior audit findings to include why finding recurred.

More information to come with issuance of next Compliance Supplement.
Subpart F – Audit Requirements 200.501-521

Schedule of Federal Awards (SEFA) for A-133 Report **must**:  

- List Federal programs by Federal Agency  
- For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity must be included.  
- Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when CFDA information is not available.  
- Include the total amount provided to subrecipients from each Federal program.  
- Include notes that describe that significant accounting policies used in preparing the schedule, and note whether or not the non-Federal entity elected to use the 10% de minimis cost rate.
What does it mean to MSU and PI’s

• The basic rules regarding **Allowability, Allocability** and **Reasonable** haven’t changed
• There is an enhanced expectation for good internal controls
  • Mentioned 75 times in the UG
  • Cost transfers
• New rules are more flexible for computers and clerical costs
  • No significant change for MSU
• There is greater expectations for the monitoring of our sub recipients
Uniform Guidance Continued

Changes

• There will be/is an automatic approval to grant sub-receipents a de minimis F&A rate of 10% MTDC
• More flexibility to comply with salary documentation
  • Effort Reporting – could it become something different
• Limits an the amount of fixed-price sub-awards ($150k cap)
• NSF’s participant support exclusion from F&A has been adopted into the definition of MTDC – applies to all agencies
• Cost sharing is not expected for research proposals and may not be used as a factor in reviewing proposals
  • Adopted the National Science Board philosophy – science trumps cost sharing
• The budget restriction on transfers from direct to F&A and vice versa has been removed
Uniform Guidance Continued

Changes - continued

- The procurement section has been delayed for 20 months
  - required source documentation for items > $3,000
- Old requirement to close an account in 90 days being strictly enforced by NSF and NIH
  - Research Terms and Conditions might move to 120 days
- Conferences – need to focus beyond the recipient
- Some VISA costs are now specifically allowable
- Terminal leave costs (vacation/leave payout)
  - move to the fringe rate?
- Revise and update policies!
- Timing – each federal agency (other than NSF) needs to issue regulations – many have not.
## Uniform Guidance - Summary Document

<table>
<thead>
<tr>
<th>Admin &amp; Clerical Salaries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2 CFR 200.413</strong></td>
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<tr>
<td><strong>2 CFR 200.430</strong></td>
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</table>

Administrative and clerical salaries may be allowable as direct costs. **How does this affect your project?** Although routine administrative and clerical salaries should typically be treated as indirect costs (i.e. paid by the General Fund), administrative and clerical salaries that meet the above criteria may now be included in proposal budgets as direct costs. Questions regarding special cases or justifications should be directed to departmental or college administrators and/or the Office of Sponsored Programs.

Administrative/clerical salaries must be in the award budget in order to be charged directly to RC accounts for new federal awards received after Dec. 26, 2014. Current awards, as well as new federal awards received prior to Dec. 26, 2014, will not be impacted until a modification is received. After that point, agency approval of administrative/clerical salaries must be obtained.
Computers (under $5,000 per unit)

2 CFR 200.20
2 CFR 200.453

Computing devices may be allowable as direct costs when essential and allocable to the federal project.

How is the UG different than Circulars A-21/A-110/A-133?
Computing devices are only mentioned once in A-21 and as an indirect cost, whereas the UG mentions their allowability as direct costs when they are essential and allocable, even if they are not solely dedicated, to the federal project. Some auditors interpreted the old language as a tight restriction on when computing devices can be charged to federal projects.
Computing devices may be allowable as direct costs when essential and allocable to the federal project.

**How does this affect your project?** The UG recognizes the advancement of technology and benefit of computing devices to federal projects, providing grantees more flexibility in the direct charging of computers. Although computing devices do not need to be used exclusively for project purposes, the device cost must be allocated based on anticipated use and provide a direct benefit to the project, both of which should be documented with the purchase. This clarification does not result in a significant change to MSU’s Federal Cost Policy.

| Computers (under $5,000 per unit) | 2 CFR 200.20  
2 CFR 200.453 |
**Uniform Guidance - Summary Document**

<table>
<thead>
<tr>
<th>Internal Controls</th>
<th><strong>Internal Controls are an essential part of spending federal funds.</strong></th>
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<tr>
<td><strong>How is the UG different than Circulars A-21/A-110/A-133?</strong> The Uniform Guidance stresses internal controls much more than previous circulars. In fact, “internal controls” is mentioned 75 times throughout the UG, compared to only 1 time in Circular A-21. It is clear that the federal government expects recipients of federal funding, such as MSU, to regularly review their project expenditures to ensure compliance.</td>
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### Internal Controls

**Internal Controls are an essential part of spending federal funds.**

**How does this affect your project?** Internal controls can be demonstrated by ensuring that expenses are charged to the proper account, accounts are not used to temporarily hold non-project expenses, and minimizing cost transfers. Therefore, it is critical that PI’s and FO’s review spending regularly to make sure expenses are being charged appropriately, support documentation is attached, and business purposes are included. Please utilize advance/hardship accounts when appropriate.
### Uniform Guidance - Summary Document

| Participant Support Costs | Participant support costs are allowable with agency approval and should be excluded from indirect costs (F&A).  

**How is the UG different than A-21/A-110/A-133?** Previously, participant support costs (PSC) were charged indirect costs, with the exception of those incurred on NSF awards. The UG specifies that PSC expenses on all federal projects are excluded from indirect costs (under the modified total direct cost base calculation) and require agency approval.  

**How does this affect your project?** Departments should exclude PSC costs from MTDC when calculating F&A Costs in proposal budgets. CGA will setup PSC portions of projects in separate accounts in order to comply with the tighter restrictions on charges to the PSC budget category. |

<p>| 2 CFR 200.75 |<br />
| 2 CFR 200.456 |</p>
<table>
<thead>
<tr>
<th>Budget Flexibility: Direct v. Indirect (F&amp;A)</th>
<th>Prior agency approval is no longer required when rebudgeting between direct and indirect cost categories.</th>
</tr>
</thead>
</table>

**How is the UG different than Circulars A-21/A-110/A-133?** Budget changes that reallocated funds between direct and indirect costs required agency approval in the previous circulars; the UG has eliminated this requirement.

**How does this affect your project?** Minor budget fluctuations for items that impact F&A like the tuition portion of grad tuition, or equipment, will no longer require agency approval.
## Uniform Guidance - Summary Document

<table>
<thead>
<tr>
<th>Subawards</th>
<th>Indirect Costs (F&amp;A)</th>
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<tr>
<td><strong>2 CFR 200.414</strong></td>
<td>Subcontractors without a negotiated F&amp;A rate have the option of charging a 10% F&amp;A rate.</td>
</tr>
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</table>

**How is the UG different than Circulars A-21/A-110/A-133?**

Previously, subcontractors without a negotiated F&A rate were expected to charge reasonable F&A-type expenses as direct costs, or forego them. The UG now allows subcontractors to charge a de minimis rate of 10% of modified total direct costs (MTDC). If this rate is chosen, it must be used for all federal agreements.

**How does this affect your project?**

When preparing proposal budgets, departments will need to be aware of which method their subawardee is using and plan accordingly. Subawardees without established F&A rates may want to include the 10% as soon as possible even though awards will not be increased to cover the additional costs.
## Uniform Guidance - Summary Document

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<thead>
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<th>Subawards: Fixed Price</th>
<th>Fixed price subawards are an option up to $150,000.</th>
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<td><strong>How is the UG different than Circulars A-21/A-110/A-133?</strong> Fixed price subawards are a type of contracting instrument that structures payments based on deliverables instead of actual costs/best efforts incurred. The previous circulars did not set a threshold for when fixed prices subawards could be issued by pass-through entities, while the Uniform Guidance sets a maximum subaward amount of $150,000 for fixed price subawards and requires agency approval.</td>
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2 CFR 200.332
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<tr>
<td>How does this affect your project? It is important to know the threshold and appropriateness of particular contracting instruments as you work with partners on proposing the type of subaward that will be issued and communicating what deliverables, documentation and financial reporting will be necessary. Questions should be directed to the Office of Sponsored Programs or Contract and Grant Administration.</td>
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The Uniform Guidance language may result in terminal leave being included in the other component of MSU’s specific identification fringe rate.

**How is the UG different than Circulars A-21/A-110/A-133?**

Terminal leave (the payout of banked sick/vacation time upon retirement or termination) was not specifically mentioned in the previous circulars. The final UG language will allow this as a direct cost, but encourages these costs to be included in the fringe rate.
### Uniform Guidance - Summary Document

<table>
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<tr>
<th>Terminal Leave Payout</th>
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<tbody>
<tr>
<td>200.431 (b)(3)</td>
<td><strong>How does this affect your project?</strong> Currently, MSU charges banked vacation time to the accounts for which faculty/staff are paid at the time of retirement or termination. The university will consider adjusting the fringe benefit rate to include this cost, which is expected to increase the “other” category of the rate by approximately .2%, i.e. the Other SI fringe component would go from 1.5% to 1.7%. If this system is adopted, all terminal leave would be paid out of a central account and charged to RC accounts as part of the fringe rate each pay period. An announcement regarding this change is anticipated within the next six months.</td>
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Uniform Guidance Continued

All of our Policies will need to be reviewed and updated

- Federal Cost Policy
- Cost Sharing Policy
- Travel Policies
- Purchasing
Questions?

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