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COGR Readiness Document - Uniform Guidance - December 2014

Author: David Kennedy and the COGR Costing Policies Committee

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**Implementation and Readiness Guide for the OMB Uniform Guidance
Prepared by the Council on Governmental Relations (COGR)**

DECEMBER 12, 2014 VERSION

Introduction

The ***Implementation and Readiness Guide for the OMB Uniform Guidance (Readiness Guide)***, developed by [COGR](#), is a resource to help your institution prepare for and implement the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule – 2 CFR Chapter I, Chapter II, Part 200, et al. (i.e., the [Uniform Guidance](#), or the UG). The ***Readiness Guide*** incorporates guidance and clarifications based on November 25th, August 29th, and February 12th FAQs released by the [Council on Financial Assistance Reform \(COFAR\)](#) and available on their website.

As of the writing of this document, we are uncertain on the status of possible technical corrections and other updates to the Final Version of the Uniform Guidance, including uncertainty as to how each federal agency will implement the Uniform Guidance. **Consequently, we have developed this as a “Living Document” and have notated this document as the DECEMBER 12, 2014 VERSION of the Readiness Guide.** We will update, accordingly, after the Uniform Guidance is released.

The Uniform Guidance is applicable to Institutions of Higher Education (IHEs) and Nonprofit Research Institutions, as well as other non-federal entities including States, Local and Tribal governments and nonprofit organizations. As specified in the preamble to the Uniform Guidance, the cost principles for Hospitals are not changed but may be addressed in the future. The ***Readiness Guide*** is targeted to IHEs and Nonprofit Research Institutions that comprise the COGR Membership.

The ***Readiness Guide*** is organized into the sections described below. Each section includes: **Item** (with reference to the applicable section of the Uniform Guidance in parentheses) and **Summary and Points to Consider** (quick summary and suggested institutional considerations specific to the applicable section of the Uniform Guidance).

- A. GENERAL
- B. FUNDING AGENCY AND AWARD REQUIREMENTS
- C. AWARD ADMINISTRATION
- D. SUBAWARDS AND SUBRECIPIENT MONITORING
- E. PROPOSING AND CHARGING COST ITEMS (includes initial comments on “effort reporting”)
- F. F&A RATE PROPOSALS

Contact COGR staff if you have questions and we will keep the COGR membership updated on all important developments.

A. GENERAL

#	Item	Summary and Points to Consider
1.	Effective Dates (200.110)	<p>200.110(a) and (b) specify that Federal agencies must implement the policies and procedures applicable to Federal awards by promulgating regulations to be effective by December 26, 2014. Subpart F-Audit Requirements will apply to audits of fiscal year beginning on or after December 26, 2014.</p> <p>COFAR FAQs .110-7 and .110-12 specify that funding increments on existing awards, issued post 12/26/14, may be subject to the UG at the agency's discretion and if the incremental funding is subject to the UG, it will be issued with modified terms and conditions.</p> <p>COFAR FAQ .110-2 states that F&A rate proposals based on FY14 can be developed using provisions in the UG.</p> <p>COFAR FAQs .110-3 and .110-5 provide guidance to IHE's for submitting revised DS-2s.</p> <p>COFAR FAQ .110-6 creates a grace period for the implementation of the Procurement Standards. For FY16, institutions have the option to use Circular A-110 or the UG. Beginning with FY17, institutions must comply with the UG.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Track, if necessary, awards issued under the Circulars and awards issued under the UG. b) Update institutional policy to specify which federal procurement policies will be followed. c) Work closely with your A-133/Single Audit team to understand the approach to the FY2015 single audit. Technically, Subpart F will be effective for the institution's first FY beginning on or after 12/26/14 (e.g., fiscal year beginning on July 1, 2015, or FY2016). However, the 2015 Compliance Supplement (normally released in March) will include guidance to auditors on how to review and audit new awards to which the UG is applicable. d) Pay close attention to new developments related to updating the DS-2, as well as cognizant agency positions on F&A rate proposal submissions. Some of these issues are unsettled and more clarification should be provided, shortly.
2.	Conflict of interest (200.112)	<p>COFAR FAQ .112-1 specifies this section of the UG does not refer to scientific conflicts of interest related to research. Instead, it refers to conflicts related to how decisions are made for selecting subrecipients or procurements as described in 200.318.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review processes for identifying and managing conflicts of interest in the procurement process.

		<p>b) The standard convention is that that subrecipient selection is part of the proposal evaluation process and <u>not</u> part of a procurement action. The FAQ confuses this matter. Institutions should clearly articulate their policies and distinguish between procurement actions and subrecipient selection.</p>
3.	<p>Mandatory disclosures (200.113)</p>	<p>This section is new to the Uniform Guidance.</p> <p>POINTS TO CONSIDER:</p> <p>a) COGR’s view is that this section does not change the current obligation and responsibility to disclose and report violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. The FAR has provisions (Subpart 3.10 Contractor Code of Business Ethics and Conduct; see also DFARS Subpart 209.5; EDAR 3409.5; etc.) and institutions that receive Federal contracts already should have a mechanism for meeting this FAR requirement.</p> <p>b) Review current policies and practices (e.g., posting of hotline numbers, reportable violations, materiality levels, timeliness for reporting, etc.) to ensure that they provide for compliance with current obligations to report.</p>
4.	<p>Internal controls (200.303)</p>	<p>There are five “musts” and one “should” for non-Federal entities articulated in this section: <u>must</u> establish and maintain effective internal control over Federal awards that provide reasonable assurance of managing in compliance with Federal rules and regulations; <u>should</u> be in compliance with guidance in “Standards for Internal Control in the Federal Government” (i.e., the Green Book) issued by the Comptroller General of U.S. and the “Internal Control Integrated Framework”, issued by the COSO; <u>must</u> comply with Federal statutes, regulations and terms and conditions of award; <u>must</u> evaluate and monitor compliance; <u>must</u> take action on any instances of non-compliance; and, <u>must</u> take reasonable measures to safeguard personally identifiable information any other designated sensitive information.</p> <p>FAQ .303-2 clarifies the use of “must” and “should” in the UG. FAQ .303-3 specifies that it is not a requirement to strictly follow the Green Book and COSO.</p> <p>POINTS TO CONSIDER:</p> <p>a) COGR’s view is that this section does not change the current obligation and responsibility for an institution to have a robust system of internal controls.</p> <p>b) The Green Book and COSO can be utilized, but are not required, to assess compliance. COFAR FAQs .303-2 and .303-3 support this.</p> <p>c) Review your current internal control infrastructure, with a special focus on areas that changed due to the Uniform Guidance. Ensure controls are documented adequately.</p>

5.	Research Terms and Conditions (200.210)	<p>200.210(b) states that Federal awarding agencies must incorporate general terms and conditions either in the Federal award or by reference. However, long-practiced Research Terms and Conditions are not addressed in this section.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none">a) Research Terms and Conditions, previously applicable by reference to OMB Circular A-110 (2CFR Part 215), will not be applicable to research awards issued after 12/26/14.b) Until new Research Terms and conditions are available, Federal awarding agencies may incorporate general terms and conditions either in the Federal award or by reference. These awards issued may include varying prior approval requirements, either in the award agreement or in the agency's implementation of the UG.c) Work closely with Federal officials to confirm the applicable terms and conditions for new awards.d) Updated Research Terms and Conditions applicable to awards subject to the UG are in development and may be available soon.e) <u>CURRENTLY UNDER REVIEW:</u> Upon release of updated Research Terms and Conditions, OMB and Federal agencies are considering a policy that would allow the updated Research Terms and Conditions to be applied retroactively to research awards issued after 12/26/14, if updated Research Terms and Conditions were not yet available. <u>Pay close attention to new developments related to the release of updated Research Terms and Conditions.</u>
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B. FUNDING AGENCY AND AWARD REQUIREMENTS

#	Item	Summary and Points to Consider
1.	<p style="text-align: center;">Funding opportunities available for at least 60 calendar days</p> <p style="text-align: center;">(200.203)</p>	<p>200.203(b) states that Federal awarding agency must generally make all funding opportunities available for at least 60 calendar days. The awarding agency may make a determination to have a less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) 60 calendar days sets a clear standard. However, agencies still can make determinations that less than 30 days is appropriate. b) Contact Federal officials when there are deviations and ask for documentation and justification. c) Notify COGR staff to document deviations.
2.	<p style="text-align: center;">Voluntary cost sharing cannot be required</p> <p style="text-align: center;">(200.204 & 200.306)</p>	<p>200.204 states that the Federal awarding agency must design and execute a merit review process for applications, which must be described or incorporated by reference in the applicable funding opportunity and Appendix I, C.2., states that announcements must state whether there is required cost sharing, matching, or cost participation. If cost sharing will not be considered, the announcement should say so.</p> <p>200.306 states that Under Federal research proposals, voluntary committed cost sharing is not expected. It cannot be used as a factor during the merit review of applications or proposals, but may be considered if it is both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity.</p> <p>COFAR FAQ 458-2 confirms applicability of the OMB clarification of uncommitted cost sharing in OMB M-01-06 dated January 5, 2001.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Contact Federal officials when there are deviations and ask for documentation and justification. b) Notify COGR staff to document deviations.
3.	<p style="text-align: center;">Agency financial risk assessment of applicants</p>	<p>200.205(b) states that the Federal awarding agency must have in place a framework for evaluating the risks posed by applicants before they receive Federal awards.</p> <p>COFAR FAQ .205-1 specifies that this section of the UG applies to Federal awarding agency assessment of risk, not auditor assessment.</p>

	(200.205)	<p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Be aware that agencies likely will review audit results and could be looking for other ways to evaluate risk. b) Notify COGR staff if it appears agencies are making determinations based on other criteria, particularly if the agency determines anything other than low-risk AND what the agency does to mitigate the perceived risk (e.g. more restrictive terms and conditions).
4.	<p>Agencies can use only OMB approved information collections (200.206)</p>	<p>200.206(a) states that the Federal awarding agency may only use application information collections approved by OMB under the Paperwork Reduction Act of 1995 and OMB's implementing regulations in 5 CFR Part 1320, Controlling Paperwork Burdens on the Public.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Contact Federal officials when there are deviations and ask for documentation and justification. b) Notify COGR staff to document deviations.
5.	<p>Agencies (and Primes) are required to use the negotiated F&A rate (200.414)</p>	<p>200.414(c) states that when there are deviations, Federal agency heads are required to notify OMB and to make publically available the decision making criteria used to justify the deviations.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Contact Federal officials when there are deviations and ask for documentation and justification. b) Notify COGR staff to document deviations. c) Consider how the institution will address F&A restrictions imposed on Federal flow through from Prime recipients, such as flow through funding from State and local government entities.

C. AWARD ADMINISTRATION

#	Item	Summary and Points to Consider
1.	Program Income (200.307)	<p>200.307(e) states that the “Addition” method is the default for IHEs and nonprofit research institutions.</p> <p>COFAR FAQ .307-1 specifies that program income from license fees and royalties should be excluded from the definition of program income and that U.S. law and statute take precedent.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) The FAQ clarifies the treatment of program income from license fees and royalties to make it consistent with past requirements in A-110 so no action is necessary.
2.	Faculty Disengagement (200.308)	<p>200.308(c) states that prior approval is required when there is “disengagement” (previously, “absence” per Circular A-110) from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Be aware of the new terminology (“disengagement”) and update policies and practices, accordingly. b) Consider using more positive language such as “Principal Investigators can be away from campus and still be engaged in the sponsored project.”
3.	Equipment and property systems (200.313)	<p>COFAR FAQ .313-1 clarifies that “conditional title” is not a new term and always has been in effect. Therefore, title continues to vest upon acquisition and is only contingent on meeting the requirements for use. COFAR FAQ .313-2 confirms that non-Federal entities are <u>not</u> expected to change their inventory systems or data elements in those systems if the systems are in compliance with the current requirements in Circular A-110.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review existing equipment and property systems and confirm current compliance with A-110. b) Update systems or data elements, if necessary, to ensure compliance.

4.	<p>Accounting for residual inventory > \$5,000 (200.314)</p>	<p>200.314(a) states that if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon completion of an award and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal government for its share. This is not a new requirement and existed under Circular A-110, C.35(a).</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review current policies and practices, especially regarding purchases made during the last 60 – 90 days of the award. b) Pay special attention to Computing Devices (also see section 200.453). One interpretation may be that once a computing device is used on a project, it does not meet the definition of “residual inventory” and therefore is not subject to the post-award accounting requirement. However, proper cost allocation principles still apply, and allocation may be questioned for computing devices purchased towards the end of project.
5.	<p>Procurement standards (200.317 thru 200.326)</p>	<p>COFAR FAQ .110-6 creates a grace period for the implementation of the Procurement Standards. For an institution’s FY16, it will have the option to use Circular A-110 or the UG. An institution must document whether it is in compliance with A-110 or the UG, and must meet the documented standard. Beginning with an institution’s FY17, it must comply with the Procurement Standards in the UG.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review new standards and begin consideration of revisions to policies and practices. b) Update institutional policy to specify which federal procurement policies will be followed during the grace period, and be prepared to share the institutional policy with auditors. c) Pay close attention to new developments and work being conducted by COGR and the FDP. <u>COGR expects to provide additional guidance in 2015.</u>
6.	<p>Project Closeout and the 90-day requirement (200.343)</p>	<p>The UG requires all financial, performance and other reports be submitted using the longstanding 90-day after the end date of the project, unless an extension is approved by the awarding agency.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Some federal agencies have recently implemented technology to tightly monitor the 90 closeout rule. IHEs should review procedures for the timing of final billing and submission of final reports. b) If necessary, consider different guidance for Federal versus non-federal awards. c) Consider cutoff dates for subrecipients and language in subrecipient agreement (FDP templates will be updated with appropriate language).

		<ul style="list-style-type: none"> d) Review the need to update or change procedures for the posting of charges after the closeout period. e) COGR is cautiously optimistic that the updated Research Terms and Conditions (as indicated previously, release date uncertain) will extend the deadline for certain types of reports (e.g., financial) to 120 days. The treatment of other types of reports is uncertain. f) If/when the 120 days is implemented, it is possible there will be differences across Federal agencies (e.g., some may maintain 90 days). Close attention should be paid to these variances. g) Attention also should be paid to any agency guidance related to old versus new awards to confirm that both should be treated the same way.
7.	<p>Required certifications (200.415)</p>	<p>200.415(a) states that to assure that expenditures are proper and in accordance with the terms and conditions of the award, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity. The certification language must include language as specified in this section (see 200.415(a) for exact language and context of the requirement).</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review and adjust your delegation policies to ensure those responsible for signing financial reports are compliant with the new certification requirements. b) Consider simpler certifications, if any, on non-Federal awards.

D. SUBAWARDS AND SUBRECIPIENT MONITORING

#	Item	Summary and Points to Consider
1.	<p>Payments to subrecipients (200.305)</p>	<p>200.305(b)(3) states that when the cost reimbursement method of payment is used, payments to subrecipients must be made within 30 calendar days after the receipt of the billing, unless the request is improper.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Consider review of current procedures for payments, including documenting receipt of invoices and whether payment is occurring timely. b) Consider whether updated procedures are necessary for proper handling of improper invoices (see 200.305(b)(6)).
2.	<p>Requirements for paying subrecipient F&A (200.331, 200.414)</p>	<p>Except if the awarding federal program is subject to a reduced F&A rate (conforming to 200.414), pass-through entities must pay the subrecipient's federally negotiated rate or, if they have never had a rate, either pay a de minimus F&A rate of 10% MTDC or negotiate a rate with the subrecipient. Subrecipients may decline F&A reimbursement, but pass-through entities may not coerce them to accept a rate lower than that to which they are entitled.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Consider developing a policy to document the rate agreed at the time of a proposal and the basis for the rate (federally-negotiated, de minimus, negotiated with pass-through entity, other). If the rate used is lower than the rate to which the subrecipient was entitled, consider documenting that such a rate was agreed to voluntarily by the subrecipient. b) Consider an institutional approach for managing F&A shortfalls for awards proposed/costed under the old rules, but subsequently awarded under the UG. c) Consider identifying and publishing the circumstances under which your institution may be willing to negotiate an F&A rate with a proposed subrecipient who does not have a federally negotiated rate.
3.	<p>Mandatory new data elements (200.331)</p>	<p>200.331(a) includes a list of the mandatory new data elements.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Revise local subaward templates (or use FDP templates) to ensure that the several new data elements required under this

		section are included in each subaward.
4.	Subaward Financial and Progress Reports (200.331, 200.328)	<p>200.331(d)(1) states that pass-through entities must specify any required financial and programmatic reports in their subawards, and are responsible for reviewing such reports.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review subaward issuance procedures to ensure desired reports are included. b) Review subrecipient monitoring procedures to ensure receipt and review of subrecipient programmatic reports and financial reports/invoices. Ensure mechanism for documenting reviews for audit purposes.
5.	Risk Assessment (200.331)	<p>200.331(e) states that pass-through entities are obligated to evaluate a subrecipient's risk and use that assessment to determine appropriate subrecipient monitoring activities. The UG suggests but does not require that certain factors be included in the risk assessment.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Decide if your risk assessment process is adequate and if the outcomes are used to drive your subrecipient monitoring. b) Determine if you will adopt the recommended risk assessment factors.
6.	Subrecipient Monitoring (200.331)	<p>200.331(d) specifies both mandatory and as-needed subrecipient monitoring obligations. Audit reports are now expected to be obtained through the Federal Audit Clearinghouse (rather than from each subrecipient, though audit reports are not expected to be available until later in 2015.).</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Determine whether your subrecipient monitoring process includes all of the specified mandatory monitoring obligations and whether you wish to include the optional monitoring recommendations. b) Consider the impact of subrecipients previously subject to A-133 audits but now exempt because of the increase in the audit threshold from \$500K to \$750K on your risk assessment and monitoring. c) Ensure that audit reports are sought through the Federal Audit Clearinghouse (FAC) rather by contacting individual subrecipients (once these become available in the FAC). d) Review monitoring process to ensure that your management decisions are documented within 6 months of the date of the subrecipient's audit report being posted in the FAC.

7.	<p><i>Issuing fixed amount subawards</i> <i>(200.45, 200.201, 200.332)</i></p>	<p>200.332 requires a pass-through entity to obtain Federal agency prior approval to enter into fixed price subawards; fixed price subs may not be used if cost-sharing is involved ; the total dollar amount of each fixed price subaward may not exceed \$150K(the simplified acquisition threshold); and requires a new certification by the sub-awardee at the end of the project that the activity or level of effort was completed or else the cost must be adjusted.</p> <p>COFAR FAQ .332-1 states it is acceptable to have more than one fixed price subaward to the same subrecipient if its total cost under the project exceeds \$150K, or the agency can be consulted for guidance.</p> <p><i>POINTS TO CONSIDER:</i></p> <ul style="list-style-type: none"> a) Determine the volume and size of your fixed price subaward portfolio to ascertain the impact of these new requirements. Consider whether you need to identify fixed price subawards in your tracking system. b) Review procedures to ensure prior approval is obtained from the agency before executing a fixed price subaward. c) For fixed price subawards exceeding \$150K, develop a process to create separate statements of work and deliverables that stay within the \$150K threshold, or decide when you will consult the agency for guidance. d) Review your closeout process to ensure you obtain mandatory completion certification. Determine procedure for deciding when cost adjustments are needed and the basis that will be used for adjusting cost (see FAQs .201-3 and 200.308).
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E. PROPOSING AND CHARGING COST ITEMS

#	Item	Summary and Points to Consider
1.	<p>Direct charging of administrative and clerical salaries (200.413)</p>	<p>200.413(c) states that salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:</p> <ol style="list-style-type: none"> 1. Administrative or clerical services are integral to a project or activity; 2. Individuals involved can be specifically identified with the project or activity; 3. Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and 4. The costs are not also recovered as indirect costs. <p>POINTS TO CONSIDER:</p> <ol style="list-style-type: none"> a) Update and/or develop a policy for charging administrative and clerical salaries that addresses the UG criteria. b) Such a policy might define <u>integral</u>, provide examples and FAQs, and specify when a budget justification is required. c) For non-federal projects consider requiring only that the cost be allocable to the project. d) Pay special attention to Modular budgets and any forthcoming guidance specific to the UG. e) Pay special attention to prior approvals expectation as specific guidance has yet to be confirmed. f) Consider a review of systems and processes to ensure these costs are not included in F&A rate cost pools. g) Pay close attention to new developments related to updating the DS-2. This issue is unsettled and more clarification should be provided shortly.
2.	<p>Compensation and documentation (formerly effort reporting) (200.430)</p>	<p>Review this section carefully and determine the system of records necessary to address the requirements, if not already doing so.</p> <p>200.430(i), Standards for Documentation, changes the emphasis of documenting salary charges to federal awards from the three examples in A-21 (which have been eliminated in the Uniform Guidance) to a system that is premised on strong internal controls. There is no reference to “certification”, which suggests that a traditional effort reporting system may not be required and that the institution’s official payroll system may be the basis for confirming payroll charges to federal awards. Issues, such as the characteristics of an auditable “system of internal control which provides reasonable assurance”, require further analysis. COGR will work towards developing additional analysis to address effective institutional practices and methodologies that will be in compliance with the new requirements for documenting salary charges to federal awards. Some analysis may utilize, if appropriate, results of audits based on the FDP demonstration projects on payroll confirmation.</p>

		<p>200.430(h) is directed to IHE's. 200.430(h)(2) defines Institutional Base Salary, IBS, as "the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration or other activities." COGR understands this language to include the total of the individual's multiple appointment(s) that comprise IBS within the institution. Again, COGR will work towards developing additional analysis on this section.</p> <p>FAQ .430-1 addresses the role of the DS-2 in the case of changes to time and effort systems. However, additional clarification may be necessary and we recommend paying close attention to new developments related to updating the DS-2.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review new standards and begin consideration of revisions to policies and practices. b) If changes are being considered (e.g., frequency, certification language, etc.), Pay close attention to new developments related to updating the DS-2. This issue is unsettled and more clarification should be provided shortly. c) Pay close attention to new developments and work being conducted by COGR, the FDP, and other higher education leaders. <p><u>COGR expects to provide additional guidance in 2015.</u></p>
3.	<p>Executive Compensation limitation (200.430)</p>	<p>200.430(d)(2) states that the allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). According to Public Law 113-67 (effective 12/26/13), the compensation limit (i.e., salary and all benefits) is set at ~\$487,000 for covered contracts awarded on or after 6/24/14. FAR 31.2 (cost principles for contracts with commercial organizations) incorporates the applicable USC sections by reference and limits allowable compensation on covered contracts.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) The FAR currently defers to Circulars A-21 and A-122 for covered contracts with IHEs and nonprofit research institutions. b) Going forward, the FAR will defer to the Uniform Guidance and, consequently, IHEs and nonprofit research institutions may be required to comply with the limit.
4.	<p>Terminal Leave and other benefits (200.431)</p>	<p>COFAR FAQ 200.431-1 states that OMB will issue a technical correction to delete the requirement that indirect costs be used to charge payments of unused leave, workers compensation, unemployment compensation, severance pay and similar employee benefits. Consequently, direct charging using the cash basis of accounting remains an allowable methodology.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) If continuing to direct charge terminal leave costs under the cash basis, review your process for allocating these costs, and the

		<p>internal control environment to assure proper allocation of the costs.</p> <p>b) While charging these types of benefits using the cash basis remains allowable, consider the pros/cons of charging as part of the fringe benefit rate.</p>
5.	<p>Computing devices (200.453)</p>	<p>200.453 states that materials and supplies used for the performance of a Federal award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Consider reviewing current institutional policy to ensure that computing devices that are charged as direct costs are essential and allowable, even if not solely dedicated to the award. b) Charging 100% to a Federal award appears to be allowable, though this is a topic still under discussion as to the best/effective practices for implementing. c) When computing devices are used for the conduct of research and exceed the institution's capitalization threshold, such devices should be proposed and charged as scientific equipment and not as general purpose equipment. d) Refer to agency implementation guidelines for specifics regarding proposing and charging computing devices, and scientific and general purpose equipment.
6.	<p>Participant Support Costs and MTDC (200.456)</p>	<p>200.456 states that participant support costs, as defined in Subpart A. Definitions, 200.75, are allowable with the prior approval of the Federal awarding agency but are excluded from the MTDC base (see Subpart A. Definitions 200.68).</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review UG and agency definitions of participant support costs and compare to institutional definitions and policy. b) Consider system/accounting changes to identify and account for participant support costs that will allow for correct treatment in defining MTDC for F&A rate development purposes. c) Train appropriate staff (e.g., those preparing budgets for sponsored project proposals) so that F&A is not applied to participant support costs.
7.	<p>Publication costs (200.461)</p>	<p>200.461(b)(3) states that page charges for professional journals are allowable when they report work on an award and the journal levies charges impartially on all items published by the journal (whether or not under a federal award). The costs of publication or sharing of research results may be charged even if incurred after the end date of the award but before award closeout.</p> <p>POINTS TO CONSIDER:</p>

		<ul style="list-style-type: none"> a) Review current processes to determine how you will ensure that the journal applies its charges independent of fund source b) Review internal procedures to determine if you will allow posting of publication charges after the end date of the award, but before closeout; and if so, during what period of time this will be permitted (e.g., without delaying closeout).
<p>8.</p>	<p>Dependent travel and commercial airfare (200.474)</p>	<p>200.474(c) states that temporary dependent care costs (as dependent is defined in 26 U.S.C. 152), above and beyond regular dependent care, that directly results from travel to conferences is allowable provided that:</p> <ul style="list-style-type: none"> (i) The costs are a direct result of the individual’s travel for the Federal award; (ii) The costs are consistent with the non-Federal entity’s documented travel policy for all entity travel; (iii) Are only temporary during the travel period. <p>Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency.</p> <p>200.474(d)(1) refers to Commercial air travel and uses the following language: the “least expensive unrestricted accommodations class” offer by commercial airlines. A-21 J.53 c(1) used the language “customary standard commercial airfare (coach or equivalent), ... or the lowest commercial discount airfare”.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Consider performing a cost analysis for item (ii) above to estimate the cost to the institution of providing temporary dependent care costs institution-wide. b) IHEs may consider adding an extraordinary dependent care program as a component of their Fringe Benefit rate, recognizing that it would take time to define and estimate the costs of the program, and to propose and negotiate the costs added to the Fringe Benefit rate. c) Consider whether an IHE should change policies from the lowest available fare (LAF) to “least expensive unrestricted class”. While this may represent a more expensive airfare, the Uniform Guidance allows this methodology.

F. F&A RATE PROPOSALS

#	Item	Summary and Points to Consider
1.	<p><i>Treatment of cost sharing and losses in the research base</i> <i>(200.306 & 200.451)</i></p>	<p>200.306(a) states that only mandatory cost sharing or cost sharing specifically committed in the project budget must be included in the organized research base. FAQ .458-2 confirms the continued applicability of the 2001 OMB memorandum that addressed voluntary uncommitted cost share, M-01-06. FAQ .201-2 (addressing Fixed Amount Awards) also provides a clarification that salary costs above a Federal awarding agency's cap are not mandatory cost-share or match but, instead, are the result of limitations on the amount of salary costs that may be charged.</p> <p>200.451 specifies that losses on awards are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base to receive an allocation of indirect costs.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Develop institutional procedures for treatment of salary costs above a Federal awarding agency's cap within the F&A proposal. Since there is currently no specific requirement within the UG to include these costs in the organized research base, look for potential opportunities for fair treatment of salary costs above the cap. b) Consider whether your institution will allow, not allow, or discourage voluntary committed cost sharing since agencies are not to consider it in merit reviews of applications or proposals, unless it is both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity. c) As OMB M-01-06 remains applicable, a minimum level of committed effort still needs to be captured for faculty (or senior researchers) on most Federally-funded research programs, either paid or unpaid by the Federal Government.
2.	<p><i>Request for a 4-year rate extension</i> <i>(200.414)</i></p>	<p>200.414(g) allows for a one-time extension of the current negotiated indirect cost rate for a period of up to four years. This refers to an extension that changes your base year, not an extension of the due date to submit your proposal for the same base year. FAQs .414.-2 and .414-3 confirm that multiple four-year rate extensions can be requested if a negotiation is completed between each rate extension request. FAQ .414-2 also specifies that documentation requests to support a four-year extension should be kept to a minimum.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Contact your cognizant agency as soon as possible if you are considering requesting such an extension.

		<p>b) CAS and ONR, in an October 22nd meeting with COGR, were consistent in stating that documentation requirements for requesting an extension will be kept to a minimum. Also, once the extension period is complete (even if only for one year), a new proposal will be required. COGR's understanding of each agency's current position on data requirements is:</p> <p><u>CAS</u>: Additional data requirements will include the last audited financial statement, last A-133 audit, summary schedules of Research base activity and space activity since your last proposal, along with a forecast for both for the number of years for which the extension is being requested;</p> <p><u>ONR</u>: Documentation requirements will depend on the number of years requested. If requesting 1-2 years, start with a phone call to ONR. They will review the previous proposal and other information and determine the documentation that will be necessary. If requesting 3-4 years, the documentation required would be more comprehensive, including the last audited financial statement, last A-133 audit, space and base activity since your last proposal, and space and base forecasts for the number of years for which the extension is being requested.</p>
3.	Submitting a revised DS-2 (200.419)	<p>200.419(b) maintains the requirement that an IHE that receives aggregate Federal awards totaling \$50 million during its most recently completed fiscal year must disclose their cost accounting practices by filing a Disclosure Statement (DS-2).</p> <p>FAQs .110-3 and .110-5, released in November 2014, attempt to clarify the process for completing and submitting a DS-2. However, additional clarification is necessary and should be forthcoming.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Per FAQ .110-3, IHE's with CAS covered-contracts meeting the dollar threshold should <u>submit</u> their revised DS-2 as soon as possible after 12/26/2014, but in any event no later than prior to the award of a CAS-covered contract or subcontract. b) Per FAQ .110-3, IHEs that do not meet the CAS covered contract threshold should <u>submit</u> their DS-2 with the next submission of the IHE's indirect cost rate proposal, unless requested earlier by the cognizant agency. c) Per FAQ .110-3, IHE's making voluntary changes in cost accounting practices other than those required in the Uniform Guidance or submitting indirect cost rate proposals that are currently due should submit their DS-2 (or revised pages of the DS-2 for changes that are not extensive) 6 months before the effective date of proposed changes. d) Per FAQ .110-5, Non-Federal entities will not be penalized for discrepancies between their approved DS-2 and actual charging practices in accordance with the new uniform guidance, provided that an updated DS-2 (consistent with actual charging practices) has been <u>revised</u> and <u>submitted</u> in accordance with FAQ .110-3. e) Pay close attention to new developments related to revising and submitting the DS-2. <u>Simplification and clarification of the process will be provided by OMB shortly.</u>
4.	Allowable	200.436(a) includes software as an asset that can be capitalized, in accordance with GAAP.

	<p>depreciation (200.436)</p>	<p>FAQ .436-1 clarifies that the depreciation associated with the institutional contribution toward the cost of buildings and equipment is allowable, unless law or agreement prohibits recovery. This resolves the confusion created by 200.436(c)(3), which states that if an institution receives federal assistance for a portion of the costs to construct buildings or equipment, even if the institutional share is not by law or agreement required as cost sharing, the institution's share is excluded from cost prior to calculating depreciation.</p> <p>200.436(c)(4) states that the acquisition cost will exclude only assets acquired solely for the performance of a non-federal award.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review/update institutional equipment policy and disclosure statement regarding software. b) Include equipment depreciation on non-federal awards that are not acquired solely for the performance of the non-federal award in your next F&A proposal. This is a change from the previous cognizant agency position where remaining depreciation from any non-federal award could be recovered only after the non-federal award ended. c) Notify COGR if depreciation on the institutional contribution associated with buildings and equipment is disallowed.
5.	<p>1.3% Utility Cost Adjustment (Appendix III)</p>	<p>Appendix III, B.4.c, states that a utility cost adjustment of up to 1.3 percentage points may be included in the negotiated indirect cost rate for organized research. FAQ .110-2 states that F&A rate proposals based on FY14 and after can be developed using provisions in the UG. FAQ Appendix III-1 specifies that IHEs and cognizant agencies should address issues related to the 1.3% UCA in a collaborative manner.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) COGR's understanding of CAS's current position is that CAS may (or may not) not accept the UCA factor for IHEs that have never had the UCA, until base year FY2016. For institutions with FY2014 or FY2015 base years: <ul style="list-style-type: none"> - IHEs already receiving the 1.3% should add the 1.3% as they have in the past without additional justification. - IHEs that have never received the 1.3% should add in a factor with a justification, but at this point there is no indication that CAS will/will not accept the adjustment. - Proposals based on FY2016 and beyond should include the UCA factor with the appropriate justification. b) COGR's understanding of ONR's current position is that institutions will be allowed to include the UCA, but may need to calculate and justify it beginning with FY2014, regardless of whether or not the institution previously received the UCA. c) Pay close attention to new developments related to application of the 1.3% UCA. This issue is unsettled and more clarification should be provided shortly.
6.	<p>Treatment of DA</p>	<p>Appendix III, B.6.a eliminates the language from A-21 F.6.b(2) which stated that administrative and clerical salaries should normally</p>

	expenses and the DCE (Appendix III)	<p>be treated as F&A costs unless they could be specifically identified to a “major project”.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) For those institutions using a Direct Charge Equivalent (DCE) to build their DA cost pool, this change in costing could affect the DCE ratio. It is assumed that the change in language regarding administrative and clerical salaries will allow for more direct charging of these costs, which could raise DCE ratios and lower DA costs. b) The DCE is predicated on the treatment of job titles/ codes/ descriptions, and consequently, may require closer review when developing the DA cost pools. c) Institutions not significantly over the administrative cap should analyze the effect this has on their DA calculation.
7.	Library expenses and other users (Appendix III)	<p>Appendix III, B.8.b states that in the first step of the library allocation, which is based on primary categories of users, the other user category must consist of a reasonable factor as determined by institutional records to account for all other users of library facilities.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Research what institutional records exist or could be generated (e.g. on-line login logs, card access, sign-in statistics, use agreements, etc.) to support the other users category.
8.	The distribution basis and MTDC exclusions (Appendix III)	<p>Appendix III, C.2 cross-references to the definition of MTDC (Subpart A, 200.68). The definition now covers participant support costs as an MTDC exclusion (also see 200.75 and 200.456). The definition remains unchanged in regard to the portion of each subaward and subcontract in excess of \$25,000 as an MTDC exclusion.</p> <p>POINTS TO CONSIDER:</p> <ul style="list-style-type: none"> a) Review UG and agency definitions of participant support costs and compare to institutional definitions and policy. b) Consider system/accounting changes to identify and account for participant support costs that will allow for correct treatment in defining MTDC for F&A rate development purposes. c) Train appropriate staff (e.g., those preparing budgets for sponsored project proposals) so that F&A is not applied to participant support costs. d) Some agencies maintain that a vendor contract greater than \$25,000 is a subcontract subject to the MTDC exclusion. Pay close attention to technical correction in the UG that may eliminate the term “subcontract” from the definition, which would clarify that the MTDC exclusion is applicable to subawards > \$25,000 only.