

Revisions to the Uniform Guidance

October 26, 2023



COGR



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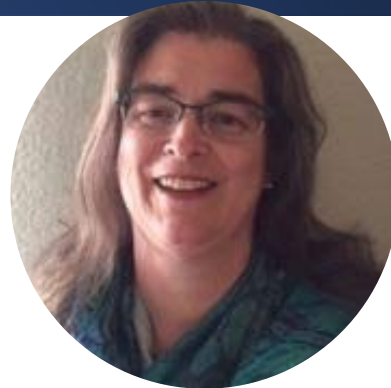
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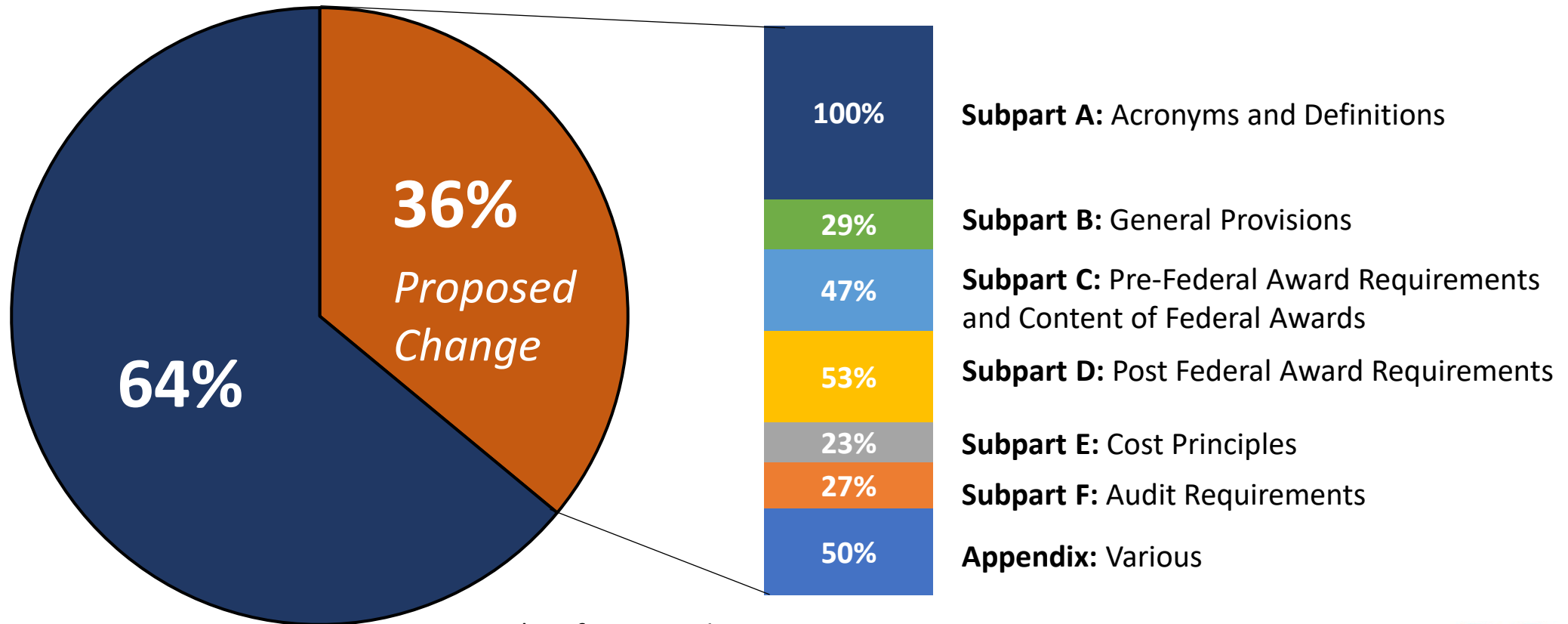
2 CFR 200 (Uniform Guidance)

Version 2.0 – Proposed Rule

- UG first released Dec. 2014 and revised Aug. 2020
- Feb 2023 OMB issued a [Notice](#) & [COGR Response](#) submitted March 2023
- Oct 2023 OMB published [Proposed Rule](#) (version 2.0)
- Comments due ***December 4, 2023***
- Truly a ***major rewrite*** and behind the “obvious” are subtle, but significant changes, which require comment!

2 CFR 200 (Uniform Guidance)

Version 2.0 – Proposed Revisions By Subpart



* Reference Gil Tran - Attain

2 CFR 200 (Uniform Guidance) Version 2.0 – Proposed Rule

OMB proposes revising 2 CFR for reasons including:

- (1) incorporating statutory requirements and administration priorities;
- (2) reducing agency and recipient burden;
- (3) clarifying sections that recipients or agencies have interpreted in different ways; and
- (4) rewriting applicable sections in plain language, improving flow, and addressing inconsistent use of terms.

The COGR Report Card

The Good: Overall, a positive change and COGR will provide a “Thank You.” While there may be a downside (e.g., PIs may not like paying F&A on an \$8,000 “supply” item), there rarely is a perfect win-win situation.

The Curious & The Concerning: Some observations are simply “Curious” and may or may not require a comment to OMB. However, when “Concerning,” COGR will provide OMB with a strong response.

The Never-Give-Up: These are items COGR has raised on multiple occasions, and if appropriate, we will make a strong response to OMB.

The Outside-the-Box: These are new and novel ideas that COGR will consider raising in its response to OMB ... our inclination is to not be shy!

The Good

- **Equipment** threshold raised from \$5k to \$10k: *200.1 – Definitions*
- **For-profit** def. added, though “generally” as a qualifier(?): *201.1 Definitions*
- **MTDC for subawards** raised from \$25K to \$50K: *200.1 – Definitions (COGR)*
- **Prior Approval** definition new and helpful: *200.1 – Definitions*
- **Project cost** deletes all references to cost sharing: *200.1 – Definitions*
- **Special purpose equip.** includes associated software: *200.1 – Definitions (COGR)*
- **Supply** threshold (see Equipment): *200.1 – Definitions*

The Good

- **Voluntary Uncommitted Cost Sharing** (finally) formalized – but also needs to be applicable to non-IHEs: *200.306 - Cost Sharing (COGR)*
- Pass thru entity **must not require diminimus F&A**: *200.332 – PTE reqs (COGR)*
- With prior approval, **no threshold on Fixed Amount Subawards**: *200.333 – Fixed amount subawards (COGR)*
- **Recipient/Sub can notify F&A disputes to OMB**: *200.414 – Indirect costs (COGR)*
- **Diminimus F&A raised from 10 to 15 percent**: *200.414 – Indirect costs (COGR)*
- **DS-2 Retired!!!** (though remind OMB not to backtrack) *200.419 – CAS Standards (COGR)*

The Good

- Deletes 2020 revision that allowed termination “**if an award no longer effectuates the program goals or agency priorities.**” *200.340 – Termination (COGR)*
- Allows charging of “**administrative closeout costs**” up until the “due date” of final reports (DMS, publications) *200.403 – Factors affecting allowability (COGR)*
- **Single Audit threshold** increased to \$1M (from \$750k): *200.501 Audit reqs*
- **Many FAQs** (May 3, 2021) have been incorporated (also see “The Concerning”):
https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf

The Curious & The Concerning

- **Disallowed costs** (deletes “in accordance w/ fed statutes ...”): *200.1 – Definitions*
- **Indirect Cost** as definition of choice, “F&A” mostly out: *200.1 - Definitions*
- **Intangible Property** does definition provide more clarity(?): *200.1 - Definitions*
- **Key personnel** needs to better align with NSPM-33: *200.1 – Definitions*
- **Participant** definition needs work: *200.1 – Definitions*
- **Subaward** slight wordsmith (?): *200.1 – Definitions*
- **Voluntary committed cost sharing** (and all “cost sharing” needs alignment and consistency with 200.306 and Appendix I: *200.1 – Definitions*

The Curious & The Concerning

- Deletes “cost principles are designed to provide that Federal awards bear their **fair share of cost ...**”: *200.100 Purpose (Cost Principles)*
- **Major rewrite of “applicability”** (e.g., for profits, subs) could require a close read: *200.101 – Applicability*
- Deletes agency requests for “program designs ... **to alleviate select compliance requirements**”: *201.102 Exceptions*
- Deletes OMB to review “**at least every 5 years**”: *201.109 Review date*
- Inevitable questions around **agency implementation**: *201.110 Effective date*
- **Major rewrite of “mandatory disclosures”** requires a super-close read: *200.113 – Mandatory Disclosures*

The Curious & The Concerning

- **Some FAQs** (May 3, 2021) have not been incorporated:

https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf

- **Complete Revision** to the template text for **NOFO**: *Appendix I*
- No changes to **Appendices III and IV**: *Indirect (F&A) Costs for IHEs and Nonprofits*
- **OMB Considerations for future updates**: incorporating NSPM-33/research security, mechanisms to adjust thresholds for inflation, remove additional prior approvals requirements, challenges with IDC negotiations, expanding Subpart F regarding audit scope & for-profit entities, and additional guidance on loans and loan guarantees

Still, the COGR way is to ...



The Never-Give-Up

- Previous COGR comments (and outside of UG) on **SAM and UEs**: *Part 25*
- Previous COGR comments on **harmonization**: *200.106 Agency Implementation*
- Previous COGR comments on an **“Ombudsman”** (and while we are at it, the **Research Policy Board**): *200.107 OMB Responsibilities*
- Previous COGR comments on **COI** (delete COI section): *200.112 COI*
- More boundaries around **use of OTAs**: *200.201 Use of grants, cooperative agreements, fixed amount awards, contracts*
- OMB remedies around **“timeliness”** of F&A/fringe rate agreements: *200.414 IDC*
- OMB remedies around **single audit disputes**: *200.513 Fed Responsibilities*

The Outside-the-Box

- Leverage **OMB's inclination updating thresholds** as a mechanism to reduce administrative burden:
 - Reporting **in-kind cost sharing** (e.g., \$10k): *200.306 Cost Sharing*
 - Reporting **post-closeout adjustments** (e.g., \$1,000): *200.345 Post Closeout*
 - Reporting PI consulting (e.g., \$10k): *200.430 Compensation*
- Helpful Definitions:
 - **Telecommunications** are ... and are classified in the institution's financial reporting system according to institutional policies: *200.1 Definitions*
 - Other?

• **Other great ideas ...**



... now may be the last chance!!!

Lest we not forget our good friend, *Gil Tran*, now with Attain Consulting

- OMB anticipates publishing the final update by December 2023 – per the FR Notice
- Final revisions effective 90 days after issuance (March 2024 tentative)
 - Can OMB complete final revisions by March 2024?
 - For new awards, effective March 2024 (again tentative)
 - Inst. wide polices effective beginning of next FY (e.g., 7/1/24?)
 - F&A changes (e.g., MTDC) effective upon next F&A proposal

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Version 2.0 – COGR Strategy/Next Steps

- Cross-Cutting Workgroup – with 16 subgroups
- Subgroups conclude analysis by end of November
- COGR will share periodic drafts of the COGR response throughout the month of November
- Contact David or Krystal if you are interested in volunteering

COGR's Uniform Guidance Resource Page



The screenshot shows the COGR website header with the logo, tagline 'An Association of Research Institutions', a search bar, and a 'COGR MEMBER PORTAL LOGIN' button. The navigation menu includes HOME, ABOUT, MEETINGS, POLICY ISSUES, RESOURCES, and CONTACT. The page title is '2 CFR 200 "Uniform Guidance" Resource Page'. Below the title, there are 'View' and 'What links here' buttons. The main content area features a large 'COGR' logo, the title 'OMB 2 CFR 200 "Uniform Guidance" Resource Page', and a paragraph: 'On September 22nd, OMB posted updates to the Uniform Grants Guidance and the official notice was posted via the Federal Register on October 5.' Below this is a call to action: 'We welcome those of you who are interested in more formally participating in crafting the COGR Response to reach out to COGR staff. CFC and CGA have created a Workgroup to complete this project, and if you are interested in volunteering, contact David Kennedy at dkennedy@cogr.edu and Krystal Toups at ktoups@cogr.edu.' At the bottom of the content area, it says 'We welcome your participation in this important project!'.



#COGROct23

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