



OMB GUIDANCE FOR FEDERAL FINANCIAL ASSISTANCE: A FIRST LOOK

COGR Preliminary Assessment of Selected Items

April 24, 2024

The Office of Management and Budget (OMB) released a [pre-publication version](#) of 2 CFR (Chapters 1 and 2) on April 4, 2024, followed by the release of the [final guidance](#) (official version) on April 22, 2024. Due to timing of the releases, our “first look” is based on the pre-publication version. Additionally, a [redline version](#) was made available on April 23, 2024, and going forward, we will use the redline version for additional analysis. Prior to the release of these versions of the final guidance, OMB issued [proposed guidance](#) in the Federal Register on October 5, 2023, and accepted public comments from stakeholders. In response, COGR provided a [comment letter dated December 4, 2023](#).

This document summarizes COGR’s “first look” at the April 4, 2024, pre-publication version, with a focus on how OMB addressed COGR’s December letter. In general, this release is consistent with the OMB proposed guidance published on October 5, 2023. However, some changes were made, and we have identified several. **Finally, the COGR preliminary assessment does not cover all changes and issues, but rather, represents a “first look” only.**

Administrative and Process

- 1) To navigate the pre-publication version:
 - Pages 1 – 235: OMB detailed responses to public comments (Preamble). This is an important read as it also explains the rationale and intent behind changes, as well as for changes not made.
 - Pages 236 – 352: Chapter 1, Parts 25, 175, 180, 182, 183
 - Pages 353 – 648: Chapter 2, Part 200 (i.e., Uniform Guidance)
- 2) OMB has indicated that, if necessary, technical corrections to 2 CFR can still be made.
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Subpart A – Acronyms and Definitions

Note: OMB did not adopt COGR's recommendation to consolidate all definitions from Chapters 1 and 2 into a unified section. Furthermore, OMB also chose not to include any of COGR's proposed additional definitions in 200.1. Below is our "first look" at Subpart A.

Acronyms: In the final guidance acronyms are consistent with the proposed guidance. Changes include bulleting acronyms by letters and simplifying the citation for FFATA. OMB did not adopt any of COGR's recommended acronyms.

Equipment (also see 200.313): OMB retained the proposed revision to raise the capitalization threshold from \$5,000 to \$10,000.

Indirect Cost: OMB adopted COGR's recommendation to explain within the definition that F&A costs and indirect costs are often used interchangeably at IHEs.

Key personnel: OMB did not adopt COGR's recommendation (align definition to NSPM-33) and ultimately decided to delete the definition and add language in 200.308(f)(2) clarifying that, at least in the context of that provision, key personnel include employees and contractors.

Modified total direct costs (MTDC): OMB retained the proposed revision to increase the threshold for each subaward from \$25,000 to \$50,000.

Participant: The definition included in the proposed guidance needed some work. With feedback from the community, OMB made revisions to better clarify the definition, including providing examples.

Prior approval: This is a new definition included in the proposed guidance and adopted in the final guidance. In the final version, OMB added the words "obtained in advance" to the definition to generally indicate that the request would happen in advance. In the preamble, OMB clarifies that this does not limit agencies from authorizing "after-the-fact" prior approvals. A concern may be how this will be applied and viewed in the audit process.

Supply (also see 200.314): OMB retained the proposed revision to raise the threshold to \$10,000.

Subpart B – General Provisions

200.100. Purpose. In the proposed October 5, 2023 guidance, and now in the final guidance, OMB deleted important language related to agency "consistency" and "fair share." This was COGR's number one comment identified as a "must have" to emphasize (and restore) the consistency and fair share principles. The two are a key foundation of the Federal Government–Grantee partnership. Over the next several months, we will continue to engage with OMB and advocate for a reinstatement of these principles.

200.107. OMB Responsibilities. OMB has left this section unchanged. While it does suggest an important oversight role for OMB, COGR has argued (and will continue to argue) that OMB take an active role when there are disputes between research institutions and Federal agencies.

Including in current cases such as agency delays in negotiating and approving F&A cost rate agreements (see 200.414).

200.109. Review Date. The historical version required OMB to review the guidance at least every five years. The new version has eliminated this requirement, though OMB suggests in the preamble that future updates will be timely.

200.110. Effective Date. The effective date is October 1, 2024. However, COGR will engage OMB to address effective dates specific to selected topics (e.g., F&A-related, applicability to new vs. existing awards, implementation plans by agency, etc.).

200.112. Conflict of Interest. OMB has left this section unchanged.

200.113. Mandatory Disclosures. COGR requested that OMB revert to the historical language and remove new language requiring institutions to “promptly disclose” certain institutional infractions when “credible evidence of a violation” is discovered. OMB did not adopt COGR’s recommendation.

Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards Sec.

200.201. Use of grants, cooperative agreements, fixed amount awards, and contracts. COGR requested “Other Transaction Agreements” (OTAs) to be addressed. OMB did not do so, though COGR will continue to advocate for more transparency on how agencies use OTAs.

Other sections in Subpart C still under review

Subpart D – Post Federal Award Requirements

200.305. Federal payment. COGR requested language that would: 1) require agencies to notify a recipient 30 days in advance before initiating fund withholding actions, 2) incorporate language from the Compliance Supplement that makes clear that under the cost reimbursement methodology, reimbursement is allowable when the cost has been incurred and allocated to the federal award, and 3) increase the allowable interest earned threshold from \$500 to \$1,000. OMB did not adopt COGR’s proposal.

200.306(k). Cost Sharing (Voluntary Uncommitted Cost Sharing, VUCS). In the Preamble, OMB stated they agreed with the COGR position that VUCS “consists of more than just faculty donated time.” However, this is not reflected clearly in section 200.306(k). COGR will engage with OMB to make a technical correction that more clearly incorporates this language.

200.306(k). Cost Sharing (Voluntary Uncommitted Cost Sharing, VUCS) and other applicable sections (200.401, 200.430(g)(ix), 200.431(j), 200.466). COGR requested that OMB extend certain flexibilities afforded to IHEs to other research institutions, as well. OMB did not adopt COGR’s request for 200.306(k). We will engage OMB to get more clarity as to their position.

200.313. Equipment (also see 200.1 Definitions). OMB increased the maximum allowable threshold for capitalizing equipment from \$5,000 to \$10,000. This is consistent with the proposed guidance.

200.314. Supplies (also see 200.1 Definitions). Consistent with the change in the equipment threshold, institutions are allowed to classify an acquisition as a supply up to the new threshold of \$10,000 (or \$9,999). OMB increased the threshold of unused supplies from \$5,000 to \$10,000 that recipients of Federal funds are required to sell at the end of the grant award period. OMB also clarified that this amount is the total amount of remaining unused supplies, not just items. This is consistent with the proposed guidance.

200.320(c). Procurement Methods (Noncompetitive procurement). COGR requested to add the following: "Noncompetitive procurement actions are permitted to acquire specialized scientific equipment necessary for conducting federally sponsored research activities." This was not accepted. COGR will request maintaining the FAQ that addresses this matter.

200.328(a) and (c). Financial reporting. OMB did not accept COGR's recommendation to update the due date of quarterly or semiannual reports from 30 to 60 days.

200.333. Fixed amount subaward. COGR supported the original OMB proposal to eliminate the threshold for issuing fixed amount subawards. However, OMB reversed its original position and created a threshold of \$500,000 (up from the historical level of \$250,000). COGR is engaging with OMB to better understand the basis reversing the original proposed.

200.340 through 200.342. Termination (and related). COGR, prior to the release of the October 2023 proposed guidance, requested an update to eliminate language that allowed unilateral termination by the agency if a program "no longer effectuates the program goals or agency priorities." This change was made. However, the pre-publication reintroduces the "old" language in a new paragraph (a)(4) as an allowable agency term or condition. On a more positive note, as COGR requested, paragraph (e) was removed, which confirms that when an agency does not offer continuation funding, this does not constitute a termination.

200.344, .345, .346. Closeout, Post-closeout, Collections of amount due. COGR proposed several changes (including a \$1,000 materiality threshold to trigger post-closeout actions) that had the potential to reduce administrative burden. None of COGR's proposals were adopted.

Other sections in Subpart D still under review

Subpart E – Cost Principles

200.400(g). Policy Guide (Profit). COGR requested language that would make clear that excess funds retained by the recipient on a fixed amount award are not considered profit. OMB included this recommendation.

200.403(h). Factors affecting allowability of costs. COGR requested language that would clearly make allowable certain prospective costs (e.g., data management costs incurred after closeout). OMB did not adopt COGR's proposal.

200.406(a). Applicable credits. COGR requested language that would clearly allow applicable credits (not easily identified to a specific Federal award) to be treated as an offset to the appropriate indirect cost function. OMB did not adopt COGR's proposal.

200.411(d). Adjustments (to F&A cost rates). COGR requested language to address the current issue regarding treatment of indirect salaries that exceed the NIH salary limitation. OMB did not adopt COGR's proposal (though note, OMB/HHS are reviewing this issue under a separate venue).

200.414. Indirect Costs. COGR requested several changes including: 1) to provide more examples of allowable facilities costs, 2) timely establishment of F&A cost rates, 3) increase the de minimis rate from the newly proposed 15 percent to 20 percent, and 4) explicitly state pass-through entities are not required to accept an indirect cost rate proposal from a subrecipient. OMB did not adopt these changes.

200.419. Cost accounting standards (DS-2). Consistent with the proposed guidance in October 2023, OMB eliminated all language relating to the DS-2. By doing so, this eliminates the DS-2 requirement for IHEs that do not meet the CAS-covered contract threshold. Institutions that do meet this threshold can work with their cognizant agency to determine if a DS-2 is necessary.

200.431(b)(3)(i). Compensation – fringe benefits (Unused leave). COGR requested OMB not to implement a new policy that requires unused leave (for institutions using the cash basis of accounting methodology) to be treated as a general administrative cost. This is a significant policy change affecting many institutions, and OMB did not respond to COGR's comment. Consequently, COGR expects to further engage OMB to better understand OMB's position on this significant policy change.

200.431(g) and (h). Compensation. Fringe benefits (Pension plans and post-retirement health). COGR encouraged OMB to follow the lead of other responders to address significant changes made to these sections in the proposed guidance. OMB, subsequently, updated these sections to address concerns raised by key stakeholders.

200.458. Pre-award costs. COGR requested OMB to address a potential, unintended policy change by requiring "prior" written approval for pre-award costs. OMB responded by deleting "prior" and requiring written approval only.

Other sections in Subpart E still under review

Subpart F – Audit Requirements

200.501. Audit requirements. The single audit threshold was increased to \$1 million (from \$750,000) and is consistent with the proposed guidance.

Other sections in Subpart F still under review

2 CFR Chapter 1, Parts 1, 25, 170, 175, 180, 182, 183

All sections still under review