Thank you to the COGR Uniform Guidance Working Group

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David Kennedy, Director for Costing and Financial Compliance, COGR (Q&A)

Robert Hardy, Director for Research Security & Intellectual Property Management, COGR (Q&A)

Sarah Axelrod, Assistant Vice President of Sponsored Programs, Harvard University (Q&A)
Uniform Guidance Changes (2 CFR) 
General Provisions 
and Communication 

Stephanie Endy, AVPR 
Brown University 

Twila Reighley, AVPR 
Michigan State University
General Reminders

- Numbering of sections
- Must vs. Should
- Assistance Listings vs. CFDA
- Obligation vs. Financial Obligation or Responsibility
Issues/Things to Consider

• Effective Dates
  • Immediate - two provisions effective August 13, 2020
  • November 12, 2020 for remainder

• SAM Registration (2 CFR Part 25)
  • Unique Entity Identifier (UEI)
  • Notification of subs

• Internal Controls

• Exceptions

• Other Issuances

• Statutory and National Policy Requirements
Developing a Communication Plan for Uniform Guidance Changes (2 CFR)

Thinking through *Who, What, and Where* (column headers):

<table>
<thead>
<tr>
<th><strong>2 CFR Changes to communicate</strong></th>
<th><strong>Who most needs to know (MSU)?</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• guidance to agencies; agencies are directed to implement</td>
<td>• Sponsored Programs Administration, Office of Sponsored Programs, Contract and Grant Administration (SPA/OSP/CGA)</td>
</tr>
<tr>
<td>• Section reference</td>
<td>• Vice President for Research &amp; Innovation (VPR&amp;I)</td>
</tr>
<tr>
<td>• Notes:</td>
<td>• VP, Finance</td>
</tr>
<tr>
<td>• Need more info</td>
<td>• Procurement</td>
</tr>
<tr>
<td>• Web or other action needed</td>
<td>• Campus*</td>
</tr>
</tbody>
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*For campus - consider variations: research deans, research administrators, faculty, and/or subgroups

See the detailed 2 CFR changes draft communication plan: [https://spa.msu.edu/PL/SiteFiles/GetFile.aspx?id=790](https://spa.msu.edu/PL/SiteFiles/GetFile.aspx?id=790)
## Communication Plan Outline for Uniform Guidance Changes (2 CFR)

<table>
<thead>
<tr>
<th>2 CFR Changes to communicate (guidance to agencies; agencies are to implement)</th>
<th>Section</th>
<th>Need more info</th>
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<th>SPA/OSP/CGA</th>
<th>VPR&amp;I</th>
<th>VP, Finance</th>
<th>Procurement</th>
<th>Campus*</th>
<th>Other</th>
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</thead>
<tbody>
<tr>
<td>Never Contract with the Enemy</td>
<td>Part 183 &amp; Subpart C, 200.215</td>
<td>X</td>
<td></td>
<td>X</td>
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<td>Some exceptions to registering in SAM, safety, security and dollar amount</td>
<td>25.110</td>
<td>For subs</td>
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<td>X</td>
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*Additional rows removed for readability...

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# 2 CFR Changes to communicate (guidance to agencies; agencies are to implement)

<table>
<thead>
<tr>
<th>1st Column of Matrix</th>
<th>2nd Column of Matrix</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Never Contract with the Enemy</strong></td>
<td><strong>Cognizant agency - clarified that if &gt;25% of Federal expenditures are directly from the Federal gov't (not subawards), then cognizant agency determined based on direct funding only (Fiscal Year 2019)</strong></td>
</tr>
<tr>
<td><strong>What status of OMB FAQs</strong></td>
<td><strong>More definition around terms related to timing for spending (budget period, period of performance, renewal award - minor changes)</strong></td>
</tr>
<tr>
<td><strong>Some exceptions to registering in SAM, safety, security and dollar amount</strong></td>
<td><strong>Clarified simplified acquisition threshold definition</strong></td>
</tr>
<tr>
<td><strong>Prohibition on Huawei, et al</strong></td>
<td><strong>Applicability, agency can approve variance for international entities and specific programs</strong></td>
</tr>
<tr>
<td><strong>Numbering and references changed</strong></td>
<td><strong>Clarification for agencies on &quot;must&quot;, &quot;should&quot;, and &quot;may&quot; (and &quot;must&quot; is the predominate term)</strong></td>
</tr>
<tr>
<td><strong>Capital Assets includes lease purchases too</strong></td>
<td><strong>Regulatory changes must be through approved notice process and FAQs, administrative requirements, etc. not as helpful or hurtful</strong></td>
</tr>
<tr>
<td><strong>Improper payment - good news, questioned cost not move to improper if and until confirmed</strong></td>
<td><strong>Performance, goals, objectives, and measures to be increasingly emphasized (brings in Circular 11 too)</strong></td>
</tr>
<tr>
<td><strong>More standards brought in for Internal Controls (OMB A-123)</strong></td>
<td></td>
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*Formatted for readability; see link for additional rows*

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Performance Goals, Budget Period, & Termination

Stephanie Endy, AVPR
Brown University

Jeremy Forsberg, AVPR
University of Texas at Arlington
Program Design and Performance Goals

• FOA
• Award
• Monitoring
• Closeout
Budget Period and Pre-award Cost Authority

• 200.1 – New “Budget Period” definition identifies intervals of start and end dates for authority to spend funds.
• 200.308(e)(1) – Federal Agency flexibility to allow pre-award costs up to 90 calendar days before the Federal Award is made.
• 200.458 – Pre-award costs added “… costs must be charged to the initial budget period of the award…”

Unintended Consequences and Clarification Needed
200.430 - Termination

• (2) Federal award may be terminated by the federal agency or pass-through entity “to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities” (replaced “for cause”).

• New addition (b): Federal agency should clearly specify termination provisions to each award.

Performing entities have recourse for failure to comply with regulations or termination for cause. It is unclear how federal agencies may specify program goals in an award or the potential unilateral decision of a shift in agency priorities that may lead to termination.
Subrecipient Monitoring

Pamela Webb, AVPR
University of Minnesota
Subaward Safe Harbor is here!

• “Prime awardees or pass-through entities (PTEs) may rely on the risk determination from a subrecipient’s Single Audit if a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding.”

• “PTEs may rely on the subrecipients cognizant audit agency or cognizant oversight agency to perform the audit follow-up and make management decisions related to cross-cutting findings …

PTE will now ONLY be required to make management decisions and to perform follow-up on audit findings that “pertain only to” or are “specifically related to” the individual subaward.
Better flexibility around subrecipient F&A rates

Must use:
  • Federally-negotiated rate if one exists (same as before)

If a federally-negotiated rate doesn’t exist, then can use:

  * A negotiated F&A rate between the PTE and subrecipient, which can be based on a prior negotiated rate with a different PTE. (If using this, the PTE is not required to collect information to justify the rate, but may elect to do so)

  * De minimus indirect cost rate (now also available for subrecipients with expired federal F&A rates)

  * Cost allocation method in accordance with 200.405(d)
Other changes

• FFATA reporting requirement is reinforced; threshold changed from $25,000 to $30,000
• 90 days for subaward closeout (to go along with the 120 days for prime)
• New termination provisions at 200.340 could affect subawards
• Requirement to include a subaward end date as well as start date

• COGR recommends revising local policies and procedures for:
  • Subaward clauses have been renumbered
  • “CFDA # and name” are now renamed “Assistance listing # and name”
  • FFATA threshold change
Procurement, Closeout, & Costing Issues

Joe Gindhart
Associate Vice Chancellor for Finance and Sponsored Projects
Washington University in St. Louis

Jerry Mauck
Executive Director for Research Administration
University of Denver
UG Procurement - Positives

• Competition requirements met using strategic sourcing

• Establish micropurchase threshold >$10K (up to $50k) without prior approval

• Price quotations obtained from adequate number of vendors as determined by the appropriate non-federal agency

• Entity can establish their own simplified acquisition threshold dollar amount based on internal controls (cannot exceed $250K)
UG Procurement - Negatives

• Prohibition of telecommunications equipment (Huawei / NDAA 889)

• Failed to add requested clarification that procurement requirements do not apply to indirect cost areas

• Did not recognize the need for sole source procurement due to scientific need

• Procurement under Federal awards should provide preference to items produced in the US – to the greatest extent practicable

• Did not modify Contract and Price section to recognize that profit may not be negotiated as a separate element in some instances
Closeout – 200.344 and .345

- Increasing from 90 to 120 days
- This is a positive change, but this suggest that agencies will be strict in enforcing
- Agencies still only have one year to close out an award
- Subs must submit closeouts within 90 days
- Institutions should determine how to monitor technical reporting to ensure compliance
- Reminder to contact granting agency when PI’s have left the institution or may no longer be able to submit report
- In .345, states that close out date does not affect the agency’s ability to “make financial adjustments to previously closed awards”
- Leaves an open-ended time frame; probably not a problem but COGR is requesting further clarification
Disclosure Statement – 200.419

- DS-2s required to be submitted with rate proposals
- Allow submission of amendments to disclosures at any time by notifying cognizant F&A Agency, acceptance is immediate
- Still no new form
Depreciation – 200.436

• For F&A purposes, states that acquisition costs must exclude “any portion of the costs of buildings and equipment contributed by of for the non-Federal entity that are already claimed as matching or where law or agreement prohibits recovery”
• Requires clarification, hope to get an FAQ to ensure this doesn’t mean to include all institutional contributions
Responsibilities of Agencies – 200.513

• A non-Federal entity expending more than $50 million a year in Federal awards must have a cognizant agency for audit

• The change clarifies how cognizance is assigned: the Federal awarding agency that provides the predominant amount of direct funding to a non-Federal entity unless OMB designates a specific cognizant agency for audit

• When the direct funding represents less than 25 percent of the total expenditures, then the Federal agency with the predominant amount of total funding is the designated cognizant agency for audit

• COGR has not identified any concerns
Appendix IV, Section C-Negotiation and Approval of Indirect Cost Rates

• States that pass-through entities are responsible for negotiations of F&A rates for subawardees that do not receive any direct Federal funding

• This is an unwelcome change and burden, especially to schools without dedicated internal costing expertise and/or capacity to take on this responsibility