



UNIVERSITY  
OF  
CALIFORNIA

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# Uniform Guidance Workgroup Assessment Report

December 5, 2014

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### EXECUTIVE SUMMARY

On December 26, 2013, the Office of Management and Budget (OMB) and the Council on Financial Assistance Reform (COFAR) published Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, Chapter II, Part 200 (Uniform Guidance). The Uniform Guidance is the culmination of a two-year effort by the government to harmonize and streamline administration of federal assistance awards (grants and cooperative agreements). It combines eight previous OMB circulars covering the areas of administrative requirements, cost principles and audit requirements. In addition to addressing the administration's goal of a government that is more efficient, effective and transparent, the Uniform Guidance also seeks to reduce waste, abuse and burden in the administration of grants and other federal assistance awards. The Uniform Guidance will be effective December 26, 2014, with the exception of Audit Requirements, which are effective the first full fiscal year after the effective date (starting July 1, 2015, for the University of California). In addition, there is a one-year grace period to comply with the new procurement standards.

The University of California (UC) Uniform Guidance Workgroup, comprising representatives from all 10 campuses, the Division of Agriculture and Natural Resources, and UC Office of the President, was formed in January 2014 in response to the government publishing the Uniform Guidance. The workgroup participants are from several key functional areas affected by the Uniform Guidance.

The workgroup, which complements local campus workgroups, had the following major goals:

- Analyze the changes in the Uniform Guidance against the requirements in the previous OMB Circulars (A-21, A-110 and A-133)
- Assess the scope of the changes vis-à-vis UC policy and campus procedures
- Recommend actions needed at the systemwide and local levels to conform with the implementation of the new guidance on December 26, 2014

The workgroup completed its initial assessment and distributed a draft assessment report to several campus communities for comment on October 7, 2014. This final report incorporates feedback from that review, as well as some additional items, found in the Appendices. **The report is directed primarily at the administrators who will have to take the lead in implementing changes to policies, processes and practices as a result of the Uniform Guidance.**

The Uniform Guidance significantly updates the federal government's approach to making assistance awards. It shifts the focus of administration from a prescriptive set of rules to institutional accountability and performance, or "internal controls," a phrase that appears frequently in the Uniform Guidance. Accordingly, in a number of areas the workgroup is recommending: (1) that the Office of the President (UCOP), in collaboration with campuses, adapt existing policy and guidance in order to provide a framework for effective internal controls, both at UCOP and on the campuses, and (2) that each site review its own standards of and procedures for internal control and adjust as necessary. The workgroup identified nine priority areas requiring changes to existing policy, guidance and procedures:

1. Allowable/Unallowable Costs
2. Procurement
3. Equipment
4. Subawards
5. Facilities & Administrative Costs

## UNIFORM GUIDANCE WORKGROUP ASSESSMENT REPORT

6. Prior Approvals  
Pre-award: Mandatory Disclosures
7. Internal Control
8. Financial Management and Reporting

The body of this report covers each of these priority areas, providing an analysis of the issues and the actions recommended by the workgroup. The recommended actions from each section have also been gathered in two appendices, one containing actions to be taken by UCOP, the other containing actions for consideration by campuses.

Some of the most significant changes in the new guidance include:

- **Changes to allowable costs, including: the allowance of certain computing devices and of administrative and clerical costs when specific conditions are met, an explicit statement that voluntary committed cost sharing is not expected and cannot be used in merit review, and the ability to charge publication costs incurred after period of performance**

These are welcome changes and will allow investigators and campuses to recoup more of the true direct costs of a project.

- **Significant changes to required methods of procurement and explicit requirements regarding conflicts of interest in procurement**

The new procurement standards are completely new to educational institutions. Campuses will need to examine and adapt current policies and processes to comply with the new standards.

- **Encouragement of family-friendly policies, such as the payment of dependent care costs while traveling**

These require institutional policies that are applicable to all employees, not just those receiving federal funding. UC currently does not have such policies in place; consequently, dependent care costs will not be allowable until unless such policies are issued.

- **A requirement that agencies and pass-through entities honor a subrecipient's federally negotiated facilities and administration rate or a de minimis rate of 10 percent**

This will benefit UC as a subrecipient, since projects will be assured of fully recovering their indirect costs. Finally the ability to use a de minimus 10 percent F&A rate with subrecipients who do not have a federally negotiated rate, rather than having to negotiate a rate each time, will reduce the burden in administering those subawards.

- **Clarification that all final reports are due in 90 days with a set one-year closeout period and three-year limit for post-closeout adjustments**

While not a new requirement, the Uniform Guidance is clearer in setting the timeframes. Campuses will need to be diligent in closing out awards within the defined periods, including accounting for subcontractors.

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- **An increase of the Single Audit threshold to \$750,000, and streamlining of the CAS DS-2 (Disclosure Statements) review and approval process**

The raising of the Single Audit threshold will not have a significant direct effect on UC campuses; however, it will likely increase the number of subrecipients not subject to a Single Audit and as a result, increase the burden of monitoring them. The streamlined review and approval process for the DS-2 will likely lessen some administrative burden, but campuses will still ultimately need to update their DS-2s to reflect the changes outlined in the Uniform Guidance.

For easy reference, the full text of relevant citations from the Uniform Guidance is included as an appendix along with **frequently asked questions** as of December 5, 2014, and a preliminary **summary of information specifically for principal investigators** (i.e., “What the PI Needs to Know”).

These two documents will continue to evolve in coming months, as the Uniform Guidance is implemented. The current snapshot is included here as potentially useful information but will ultimately exist on the UCOP website, where the campus communities can freely access them.

This report, along with additional Uniform Guidance resources, will be posted at <http://ucal.us/uniformguidance>.

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## IMPACT ASSESSMENTS

### 1. Allowable/Unallowable Direct Costs

#### Background

Uniform Guidance (UG) defines direct costs as those costs that can be identified specifically with a particular final cost objective or sponsored agreement. For costs to be directly charged to federal awards they must be allowable, reasonable and allocable to the award.

#### Issue

Uniform Guidance has changed the treatment of certain costs as allowable direct charges to federal awards. The changes in the UG provide more flexibility in charging a number of cost items than previous federal guidance, but certain items of cost are now more restrictive than current federal rules.

The following direct cost items have significant changes to the treatment when charging federal awards under the Uniform Guidance:

- **Participant support:** Clarifies the treatment and definition of participant support costs as costs for training or conferences for participants who are not employees.
- **Computing devices:** Classifies computing devices as part of materials and supplies. Now allows flexibility in charging these costs when they are necessary but not solely dedicated to an award.
- **Administrative and clerical salaries:** Removes the major project determination and allows for charging with prior approval when specific conditions are met.
- **Compensation – personal services:** Emphasizes internal controls in the standards for documentation of personnel expenses. Systems for documentation must provide reasonable assurance that charges are accurate, allowable and properly allocated.
- **Publication and printing:** Provides flexibility to charge publication costs incurred after the period of performance but before the final closeout of the project.
- **Visas:** Provides for consistent treatment of visas across federal funding agencies as a recruiting cost.

#### Analysis and Conclusions

Uniform Guidance rules have changed the treatment of several items of cost, which will allow more flexibility to direct charge certain types of costs to federal awards but also restrict flexibility on other items.

- **Participant support:** The UG has adopted the National Science Foundation treatment of allowing participant support costs as a budgetary item with prior approval. These costs will be included as a new Modified Total Direct Costs (MTDC) exclusion in the UG; therefore these costs are not subject to F&A reimbursement. This will require the following actions:
  - Identification of all participant support costs in the proposal to determine the MTDC base on which to apply F&A rate

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- May require new attributes/account codes to identify the costs in federally sponsored awards. Some of the expenditure types are the same as other expense that are subject to F&A (e.g., travel) but are for trainees instead of employees.
  - Must be able to exclude costs from F&A rate proposals
- **Computing devices:** The guidance specifically calls out computing devices (less than \$5,000) as an allowable supply cost that may be direct charged to awards. These computing devices must be essential and allocable to the award even if they are not solely dedicated to the award. This updated guidance has reduced the burden of obtaining prior approval for such purchases. However, institutions must follow the same practice for determining and documenting allocability.

Campuses may want to provide guidance on the definition of “essential” for consistency as CAS 502 – *Consistency in allocating costs incurred for the same purpose* by educational institutions still applies.

- **Administrative and clerical salaries:** The UG has provided institutions with flexibility in the direct charging of administrative and clerical salaries as compared to the guidance in OMB Circular A-21. This flexibility is provided by removing the A-21 Exhibit C requirement that only major projects are eligible for charging these administrative and clerical salary costs. Administrative and clerical salaries are now allowable if they are integral to the project and have prior approval from the awarding agency.

Administrative/clerical salaries are different from programmatic salaries, which may include costs related to protocol development and maintenance, managing substances/chemicals, managing and securing specific project data, and coordination of research subjects. These programmatic salaries are not subject to the extra approval requirements of administrative and clerical salaries.

- **Compensation – personal services:** Complex language and specific examples in OMB Circular A-21 are removed. The new language is intended to reduce administrative burden for documentation. While the new language is less prescriptive by omitting specific examples, emphasis is placed on internal controls for meeting the Standards for Documentation of Personnel Expenses outlined in the UG. Now institutions have greater flexibility in the documentation of personnel expenses and can consider alternative effort reporting consistent with the standards for documentation with cognizant agency approval. Budget estimates may be used for interim charges, provided that estimates are reasonable, significant changes are timely made and require after-the-fact review to ensure that activities expressed as a percentage distribution of total activities have not changed. However, documentation must be supported by a system of internal controls which provide reasonable assurance that amounts charged are accurate, allowable and properly allocated.
- **Publication and printing:** The UG is providing institutions additional flexibility to charge federal awards after the performance period for page charges in professional journals. Allowing charges after the performance period may require systemic/procedural changes to allow costs to post to an award after the performance period. However, late charges can create issues for meeting 90-day closeout of federal awards.



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- **Visa Costs:** The UG provides for consistent treatment of visa costs across federal funding agencies as a recruiting cost. This is consistent with current National Institutes of Health regulations, which allow for visas to be an allowable direct charge as part of the recruiting costs of individuals paid on the federal award. The UG allows short-term, non-immigration visa costs for a specific period and purpose as direct costs on federal awards if these costs are critical and necessary and clearly identified as directly connected to the work performed on the federal award. Because this is being classified as a recruiting cost, only the initial visa cost is allowable. J1 and H1B visas are for a specific period and purpose; therefore, these visa types are generally allowable if the specific conditions are met.

### Recommended Approaches and Actions

#### UCOP

- Revise the Contracts and Grants (C&G) Manual to include Participant Support costs as a budgetary item that is not subject to F&A
- Revise section 7-210 (Materials & Supplies) of the C&G Manual to include language related to computing devices
- Revise section 7-310 (Costs Normally Treated as Indirect) of the C&G Manual to include the new administrative and clerical salary rules (i.e., remove the major project language, etc.)
- Define “essential” with regard to computing devices
- Define “integral” with regard to administrative and clerical salaries
- Update C&G Manual references to the old circulars to reference 2 CFR 200
- Review C&G Manual section 7-330 to remove restrictive language on effort reporting
- Work with campuses to set up focus group to examine alternative methods for documentation of personnel expenses.

#### Campuses

- Update Disclosure Statements (DS-2):
  - a) 3.5.0 for MTDC exclusions
  - b) 2.1.0 for criteria of direct charging administrative and clerical salaries
  - c) 2.4.0 for description of direct charging administrative and clerical salaries
  - d) Update references to A-21 to Uniform Guidance (2CFR Part 200)
- Identify local solution for accounting for participant support costs as an MTDC exclusion and exclude the costs from F&A rate proposals
- Update all campus guidance that limits the charging of computing devices to federal awards
- Review and ensure current system for documentation of personnel expenses is supported by necessary internal controls. Strengthen where necessary.

#### [Citations](#)

#### [Frequently Asked Questions](#)

#### [What the PI Needs to Know](#)



## 2. Procurement (includes Conflict of Interest)

### Procurement Standards

#### Background

Procurement standards are covered in sections 200.317 through 200.326 in the Uniform Guidance and are generally based on the requirements in OMB Circular A-102. The Council on Financial Assistance Reform (COFAR) recommended OMB utilize the A-102 to better mitigate the risk of waste, fraud and abuse. While states follow 200.317, other non-federal entities must conform to the guidance in sections 200.318 through 200.326. COFAR's FAQ provides institutions a one-year grace period for complying with the UG procurement standards beginning with the first full fiscal year that starts after the effective date of December 26, 2014 (i.e., July 1, 2015; therefore implementation of the procurement standards is not required until July 1, 2016).

#### Issue

Procurement standards are significantly different from A-110 and potentially create new administrative burden:

#### **§200.318 (related UG policy: §200.112 Conflict of Interest)**

- a) The university must use the current documented procurement process as long as it complies with applicable federal law.
- b) The university must maintain oversight over contractors' performance in accordance with their contract.
- c) Standards of conduct must be in writing. Current conflict of interest definitions are still acceptable. The university can set standards for gifts that can be considered nominal or not substantial. The written standards must include disciplinary actions to be applied for violations by officers, employees, or agents of the university. (See CFR 200.112.)
  - i. UCOP and each individual campus must maintain their own written standards of conduct.
- d) The institution must avoid acquisitions of unnecessary or duplicate items when making procurements.
  - i. Economical purchases – consolidate or break out procurements for economic gain.
  - ii. Analysis – conduct lease versus purchase alternatives to determine most economical approach.
- e) Common, or shared, services – The university is encouraged to utilize state and local government agreements or intercampus agreements where appropriate.
- f) Excess and surplus property – The university is encouraged to use federal excess and surplus property instead of purchasing new equipment (need a way of looking this up).
- g) Section 200.318(g) refers only to construction contracts.
- h) Use responsible contractors only – measured by such things as integrity, compliance with public policy, past performance, and financial and technical resources.
- i) Documentation – The university must maintain records for the entire history of the procurement.

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- j) Time and material (T&M) contracts – These can be used only if no other contract type is suitable, and if the T&M contract includes a ceiling price that the contractor exceeds at their own risk.
  - i. Oversight of T&M contracts – The university will have to assert a high degree of oversight to ensure efficient methods and controls.
- k) Contractual and administrative issues and disputes – The university alone is responsible, in accordance with good administrative practices and business judgment, for the settlement of all contractual issues arising out of procurements. If the matter is a federal concern, the federal awarding agency may substitute its judgment for that of the university. Violations will be referred to the local, State or Federal authority having proper jurisdiction.

### **§200.319**

Non-federal entities must conduct procurements in a manner that prohibits use of statutorily or administratively imposed State or local geographical preferences in the procurement, which may conflict with State laws.

### **§200.320**

Institutions must use one of the five procurement methods:

1. Micropurchases
2. Small purchase
3. Sealed bids (formal advertising)
4. Competitive proposals
5. Noncompetitive proposals (sole source)

These methods are much more detailed and prescriptive in comparison to A-110.

### **§200.323**

Non-federal entities must perform cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold.

## **Analysis and Conclusions**

### **Competition**

There are no substantial changes in the competition requirements from prior policy. However, there is more emphasis placed on written procedures and optimizing savings where possible. Changes mainly affect the bid threshold and the type of documentation required. The Uniform Guidance promotes full and open competition bids; UC should do everything it can to be inclusive during the solicitation process to ensure that maximum open and free competition is available and widely used.

The following items **should be avoided** when preparing the RFP documents and making the award:

- Placing unreasonable qualifying requirements on firms (requiring special certifications or years of experience that only a few firms have)
- Requiring unnecessary experience and excessive bonding requirements for construction
- Noncompetitive pricing practices between firms or affiliated companies (teaming)
- Organizational conflicts of interest (employee ownership, donor relationship, etc.)

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- Specifying a “brand name” instead of allowing for “an equal” product consideration
- Arbitrary actions (political, authoritarian decisions based on little or no evidence, and made by one or few people in power)
- Requiring state or geographical preferences

The following items **should be prevalent** in the description of the RFP:

- Accurate description of technical requirements for goods and services
- Generic specifications as are possible (We cannot include details that restrict competition, such as a brand name or geographic location.)
- Addition of the words “or equivalent” If a brand name or model number is needed to describe performance or other specs
- Clear mandatory requirements and all factors being evaluated to avoid a protest

Because California state law, Public Contract Code 10507.7, requires a bid threshold of \$100,000, it is possible the transaction may be subject to a \$100,000 bid threshold. Buyers should check with their campus Procurement Department to determine which law prevails.

### Procurement

Institutions must use one of the five procurement methods:

1. Micropurchase
2. Small purchase
3. Sealed bids (formal advertising)
4. Competitive proposals
5. Noncompetitive (sole source)

Procurement by micropurchase can be used for acquisition of supplies or services if the aggregate dollar amount does not exceed \$3,000 (or \$2,000 for Davis-Bacon Act), and this could have implications on procurement card programs. The small purchase procedures can be used for source selection on federal orders under \$150,000. Purchases using this selection should be used only when the product or services are commercial in nature; that is, readily available (sold on the commercial market with established market pricing). Quotes will need to be obtained from two or more suppliers. Methods 3 and 4 include detailed requirements associated with sealed bids (3) and competitive proposals (4). Method (5) specifies the requirements and circumstances applicable for sole-source procurement.

### Cost and price analysis

In addition, the changes from A-110 to the Uniform Guidance include the requirement of cost or price analysis **only in excess** of the Simplified Acquisition Threshold (\$150,000), whereas A-110 required cost analysis with every purchase.

Contract modifications will also require cost and price analysis each and every time.

### Recommended Approaches and Actions

#### UCOP

- Determine whether the system as a whole or each campus will be responsible for choosing to utilize the delay in implementation.

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- Issue written procedures; update BUS-43, 34 and 77 to match OMB guidance. Also, OP should add language regarding state vs. federal thresholds, and which supersedes.
- Define “adequate number” of sources. The workgroup suggests using the same definition as referenced in §200.320(c)(ii), which is two or more. **(Note: UCLA suggests three or more.)**
- Confirm whether or not the state competition law, which is currently set at \$100,000, prevails.
- Include the five methods of procurement into BUS-43 for federal purchase guidance (micropurchase, small purchase, sealed bids, competitive proposals and sole source – Noncompetitive).
- Work with campuses to create a form to help buyers document which method is being used for the transaction. (Bear Claw document is available from UCSB.)
- Determine which law/policy takes priority: Public Contracts Code or OMB, regarding dollar limits.
- Clarify the difference between Price Reasonableness and Cost Analysis, and include them in BUS-43. While purchases under \$150,000 do not require cost analysis, they do require purchase documentation history and price reasonableness (refer to 200.318(i), and 320(a)).
- Maintain its own written standards of conduct, including the disciplinary actions to be applied for violations by officers, employees or agents of the university.
- Optimize tangible and intangible savings where possible. OP may need to come up with a process to utilize more state contracts and find surplus property.
- Define nominal gifts.

### Campuses

- Update or create written procedures and work with OP to create a buyer checklist.
- Work with OP to define “adequate number” of bids.
- Ensure buyers are meeting the spirit of this provision by including quotes from alternate suppliers and documenting source selection by way of Small Purchase Threshold.
- Add cost and price analysis to purchasing buyer checklists, and incorporate into any applicable eProcurement workflow (same as UCOP above).
- Maintain their own written standards of conduct, including the disciplinary actions to be applied for violations by officers, employees or agents of the university (same as UCOP above).
- Optimize tangible and intangible savings where possible. Campuses may need to come up with a process to utilize more state contracts and find surplus property (same as UCOP above).
- Define nominal gifts (same as UCOP above).
- Construction – Be aware of and implement procedures to adhere to this provision, as well as §200.325:

*“...When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.”*

### [Citations](#)

### [Frequently Asked Questions](#)

### [What the PI Needs to Know](#)

## Pre-procurement Review

### Background

Federal agency or pass-through entity review must be conducted by Procurement, Internal Controls, Audit and department buyers.

### Issue

A non-federal entity is exempt from the pre-procurement review if the federal agency determines that its procurement system complies with the standards or the non-federal entity self-certifies its system.

### Analysis and Conclusions

UC campuses may be asked to undergo an audit or provide self-certification documentation if receiving high dollar governmental funding and/or subawards. Audit certification may still be required for some institutions, even if the institution has self-certified. Campuses must have clear written procedures matching OMB guidance and any applicable state and/or local policies.

Purchases at risk for review and audit include:

- Sole-sourced transactions
- Those exceeding the microcap threshold of \$3,000
- Competitively bid transactions

Self-certification does not nullify any of the prescribed sourcing requirements. The self-certification must cite specific policies, procedures, regulations or standards that comply with these regulations.

### Recommended Approaches and Actions

#### UCOP

- Develop a standard form and checklist for campus use for the self-certification of its procurement system(s). The form should be signed by the UCOP chief procurement officer and vetted through a federal auditing agency for compliance purposes.

#### Campuses

- Recommend UC campuses either go through the Contractor Purchasing System Review (CPSR) audit to certify their procurement systems or follow OP guidance for self-certification.

### Citations

### Frequently Asked Questions

### What the PI Needs to Know

## Conflict of Interest

### Issue

Standards of conduct must be in writing. The university can set standards for gifts that can be considered nominal or not substantial. The written standards must include disciplinary actions to be

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applied for violations by officers, employees or agents of the university. UCOP and each individual campus must maintain their own written standards of conduct.

### **Previous Circular**

“Codes of conduct. The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.”

### **Analysis and Conclusions**

The Uniform Guidance is no different from A-110. That said, emphasis is placed on written procedures to enforce disciplinary actions. We will need to include this in our standard conflict of interest policies in BUS-43 and, where applicable, the SPO policies.

### **Required Actions**

#### **UCOP**

- Ensure that Office of the President conflict of interest policies include disciplinary actions to be applied for violations by officers, employees or agents of the university. Also, we will need to define “nominal” as it relates to gifts in §200.318.

#### **Campus**

- Campus-level offices should look into their procedures, forms and website information to ensure this requirement/information is posted clearly.

### **Citations**

### **Frequently Asked Questions**

### **What the PI Needs to Know**

### 3. Equipment

#### Equipment and Capital Expenditures

##### Background

The Uniform Guidance introduces differing standards for the allowability of computing equipment as direct costs, depending on whether the equipment is a capital or noncapital expenditure. There is also ambiguity among various sections concerning whether equipment disposal costs are allowable direct charges.

##### Issue

There is a change in policy regarding the allowability of computing devices to be charged to an award if they are not used solely for the project – if the computing device is a non-capital expenditure (i.e., falls within the range of materials and supplies costs). No funding agency approval is required for these purchases (§200.453 – see citation below). These changes benefit the non-Federal entity, since previously such devices could be charged to an award only if used exclusively in performance of the award.

If the equipment is a capital expenditure, however, the purchase of computing equipment (as other general purpose equipment) is an allowable expense only if prior written approval has been obtained from the federal awarding agency. This provision remains unchanged from previous policy.

The allowability of disposal costs of equipment appears to be inconsistent. Under §200.439 (b) (6), such costs are declared allowable, with no qualifications; however, under 200.313(e)(2) it is stated that the federal awarding agency *may* permit the non-federal entity to deduct its disposal costs from the federal share. Just because such costs are allowable does not mean that they will always be allowed as direct charges under a specific award. Previous provisions in A-110 (cited below) were unambiguous in stating that the federal awarding agency *shall* permit the reimbursement of disposal costs.

##### Analysis and Conclusions

It should be noted that while disposal/transfer costs are allowable, per §200.439 (b) (6), §200.313 (e) (2) states that, on an award-by-award basis, the federal awarding agency *may* (or may not) permit the non-federal entity to recoup such costs. This language represents a modal change from the existing subsection of A-110, 34 (g) (1), which states that “the recipient *shall* be permitted to deduct and retain from the federal share \$500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.” The reimbursement for sale costs is now discretionary and something that should be clarified in favor of the university at the time that awards are negotiated, or in standard agency boilerplate.

The clarity previously provided under A-110 – subsections (34) (g) (2) and (3), which were explicit in their treatment of disposal costs, is completely absent from the Uniform Guidance, under §200.313 or §200.439:

*(g) (2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.*



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*(g) (3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by the Federal awarding agency for such costs incurred in its disposition.*

Previous Circular – A-21/A-87; A-21 subpart J.18; also, A-110, 34(g)(2) and (3)

### Recommended Approaches and Actions

Regarding disposal costs, unless the ambiguity is resolved via an FAQ, or with agency-specific policies, campus sponsored research offices should endeavor to negotiate explicit language in all awards making all disposal costs directly allocable to the award, to ensure that UC does not incur any shipping, etc. charges if the final disposition of equipment involves shipment to another entity, or sale with the proceeds being returned to the federal agency. Also, if disposition were to occur after the award had closed, the non-federal agency must be able to recoup its disposal and/or shipping costs from the proceeds to be remitted to the federal awarding agency.

Regarding the allowability of computing device costs as direct charges, the distinction between capital and noncapital costs is valid and probably related to the federal government's willingness to allow smaller dollar charges being made to an award without prior approval while retaining its right to disallow unapproved ones of a high dollar value. There will always be a threshold where the distinction appears arbitrary (i.e., \$5,000). As is the case currently, if any award will involve the acquisition of capital general-purpose equipment, it must be listed in the budget and preapproved by the agency, or requested and preapproved via amendment. No unauthorized purchases may be made.

### UCOP

- Request clarification from OMB of the seeming inconsistency of the treatment of disposal costs

### Citations

### Frequently Asked Questions

### What the PI Needs to Know

## Equipment Title and Records

### Issue

Absent explicit language to the contrary, title to exempt property vests in the recipient under OMB A-110; after implementation of the Uniform Guidance, absent such explicit language, title to exempt property will remain with the federal government.

Additionally, property records must contain the percentage of federal participation in the project costs for the federal award under which the property was acquired. The record must also contain the federal Award Identification Number (FAIN) and use of the property.

### Analysis and Conclusions

The change related to exempt property, which must be explicitly declared exempt under the Uniform Guidance, does not have a significant impact: such government-furnished property is rare and has always been explicitly provided with federal title requirements. There is no change regarding nonexempt property: conditional title has always been implied under A-110 and the Uniform Guidance

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simply includes explicit language in this regard. If the non-federal entity meets all germane requirements set forth in the Uniform Guidance (referenced above), title vests with the grantee.

The requirements for property records have not substantively changed in the Uniform Guidance. The requirements for property records are meant to ensure that the non-federal entity maintains an equipment inventory system that demonstrates the non-federal entity has an effective system of controls to account for and track equipment that has been acquired with federal funds. Non-federal entities are not expected to change their equipment inventory systems or the data elements contained in those systems if they are in compliance with the current requirements in Circular A-110.

The percentage of federal participation in the cost of equipment in Circular A-110 was identical to the percentage of federal participation in the cost of the original project or program. One could infer that from the amount of compensation a recipient was required to make to a federal agency at the time of disposition under 2 CFR 215.34(g) — i.e., “compensation shall be computed by applying the percentage of federal participation in the cost of the original project or program to the current fair market value of the equipment.” The A-110 requirement in 2 CFR 215.34 is for the recipient’s records to have information from which one could calculate the percentage of federal participation in the cost of the equipment, the percentage of federal participation in the original project or program, and information from which one could derive the current fair market value. The Uniform Guidance makes that more explicit through the definition of “federal interest” in 2 CFR 200.41. The “location, use and condition of the property” is referring to an indicator in the property records that the specific equipment item is active and linked with the appropriate federal award, identical to the requirement in Circular A-110.

Previous Circular – A-110 (33)(b)

### **Recommended Approaches and Actions**

#### **UCOP**

- Working with COFAR, or with other agencies, get a strict determination of the definition of exempt property – government-furnished only, or also contractor-acquired. If the former, no policy/procedure changes are necessary.
- Revise BUS-29 to explicitly include use, FAIN and percentage of federal participation in the minimum list of mandatory data fields under section III.B.7.

#### **Campuses**

- The majority of systems already include a use field; therefore, no changes should be needed to record this data.
- Ensure that equipment record can be easily linked to a record listing the FAIN and percentage of federal participation values.
- Campuses may also chose to include the FAIN (if they do not already do so) and federal participation in the custody description of the equipment record.

### **Citations**

### **Frequently Asked Questions**

### **What the PI Needs to Know**

## Management and Disposition

### Issue, Analysis and Conclusion

There are changes under §200.313 (c), “Use,” benefit the non-federal entity. For example, whereas A-100 34(e) required federal approval to trade in or sell equipment and to apply the proceeds to offset the cost of new equipment, the phrase “subject to the approval of the federal awarding agency” is deleted from §200.313 (c) (4). Similarly, whereas in A-100 34 (d), agency approval was required for use of equipment on activities not sponsored by the federal government, §200.313 (c) (2) simply states “[u]se for non-federally funded programs or projects is also permissible.”

Section 200.313 (c) (4), however, does not specify that user fees “shall be treated as program income,” as was stated in A-110 (d). Notwithstanding, it appears that this is the intent, in line with §200.307 (a) which states that “non-Federal entities are encouraged to earn income to defray program costs where appropriate.” Furthermore, under §200.313 (c) (3), the guidance states that “[n]otwithstanding the encouragement in §200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal government retains an interest in the equipment.” Again, user fees equal program income.

Changes to §200.313 (d), Management Requirements, also benefit the non-federal entity, or are neutral. There are several interesting deletions. The A-110 (f) (2) requirement that “[e]quipment owned by the Federal Government shall be identified to indicate federal ownership” is completely absent from the Uniform Guidance, as is the requirement (A-110 (f) (3) that, following a physical inventory, “[a]ny differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.” Whereas A-110 (f) (4) requires that any loss, damage or theft be fully investigated “and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the Federal awarding agency,” §200.313 (d) (3) only requires that such loss, damage or theft be investigated; there is no reporting requirement.

In spite of the omissions from the Uniform Guidance, it is anticipated that it will remain UC policy that all federal-title equipment be tagged to indicate federal ownership, and that any discrepancies, loss, damage, theft or destruction of federal-title equipment will continue to be promptly reported to the awarding agency.

Changes to 200.313 (e), Disposition, also benefit the non-federal entity, or are neutral. The preamble adds a phrase stating that disposition instructions must be requested from the federal awarding agency “if required by the terms and conditions of the Federal award.” More importantly, it clarifies that “[i]tems of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.” A-110 only provided instructions on how to handle items worth \$5,000 or more, leaving the policy open to different interpretations. Since most items purchased under federal awards will have conditional title, this removes a very large percentage of them from any obligations to obtain federal agency approval for sale, transfer, use under another award, or the need to return the sales proceeds back to the federal

government. Most items, at the time they are no longer needed or when awards close, have depreciated below \$5,000 in fair market value. Finally, a new clause in §200.313 (e) (3) clarifies the fact that, when instructed to sell or transfer an item which was partially funded with non-federal monies, the non-federal entity “must be entitled to compensation for its attributable percentage of the current fair market value of the property.”

### **Recommended Approaches and Actions**

#### **UCOP**

While the provisions related to the sale of conditional title equipment retaining a fair market value of \$5,000 or greater and no longer needed by the non-federal entity have not changed from those previously established in A-110 – the federal awarding agency should be compensated for any such sale – BUS-29 does not address the university’s responsibilities in this regard and must be amended. It acknowledges only two categories – unconditional UC title and federal title. The requirement that the federal awarding agency be compensated is mentioned nowhere. BUS-38, related to the disposition of property, will also need to be rewritten.

Also, OP should obtain clarification as to how the reimbursement is to be made: to the specific agency or to a more general federal-clearing account? (For example, in the case of rebates obtained by the university from strategic sourcing contracts, the federal share of the rebate is remitted to a single account, rather than attempting to break it down by agency.) This clarification is needed because UC (and probably most other institutions of higher education) *have not* been following this provision of A-110. Federal auditors have not issued any findings in the past, but as noted during COFAR discussions, just because practices have passed audit in the past does not mean that this will continue to be the case, as the auditors look at the governing policy with new eyes.

Furthermore, UCOP must obtain clarification as to whether the disposition provisions of §200.313(e)(1)-(4) apply only under federal awards whose terms and conditions require that the non-federal entity obtain disposition instructions from the federal awarding agency, or whether they apply to all conditional title equipment, whether or not the federal award contains disposition terms and conditions.

#### **Campuses**

It is rare for sales of equipment where the fair market value exceeds \$5,000 to occur (equipment is usually disposed of, whether by sale or by scrapping, when it is fully depreciated, or when the fair market value is well below \$5,000). However, conditional title equipment may be sold as part of the transfer of a professor to another institution at times where the fair market value/sale price exceeds \$5,000 per unit. These cases need to be identified and the federal share remitted to the government, rather than the full sale amount being returned to the department and/or retained to recover costs within the Surplus Sales Department. Local policies may need to be rewritten (and department informed) of these changes.

### **Citations**

### **Frequently Asked Questions**

### **What the PI Needs to Know**

### 4. Subawards

#### Fixed-amount Awards

##### Background

The new Uniform Guidance significantly limits the university's discretion in making fixed-amount, or fixed-amount, subawards. According to the new Uniform Guidance §200.332, federal award recipients can only issue fixed-amount subawards that do not exceed the Simplified Acquisition Threshold (currently set at \$150,000). Before issuing any fixed-amount subaward, the university must obtain prior approval from the federal awarding agency to do so. Section 200.201 provides the conditions under which a fixed-amount subaward may be issued.

##### Issue

The fixed amount awards language in §200.201(b) is new to the Uniform Guidance and was not included in the previous circular.

##### Analysis and Conclusions

The COFAR Frequently Asked Questions do not clarify that §200.201 would apply to fixed-amount subawards, though paragraph 3 of that section implies that pass-through entities would be subject to requirements outlined in this section.

Analyses of specific sections within §200.201 are as follows:

- Although not a substantive change, §200.201 (b)(1) echoes one of the hallmarks of the Uniform Guidance by highlighting the need to tie payment to performance, i.e. to tasks or defined milestones.
- Section 200.201 (b)(2) prohibits the use of a fixed-amount award if cost sharing is mandatory [under the terms of the award?]. Campuses will need to add internal controls to ensure that a fixed-amount subaward is not issued when cost sharing is a mandatory component.
- Section 200.201 (b)(3) explicitly specifies that a sub-recipient of a fixed-amount award must certify at the end of the project that the project or activity was completed or that the level of effort was expended. Language will need to be added to fixed-amount agreements, final invoices and/or closeout forms to address this certification requirement. Internal controls will need to be added to ensure that the certification has been received prior to closeout of the fixed-amount award.
- Although not a substantive change from current practice, §200.201(b)(4) requires that fixed-amount awards include periodic reports, presumably deliverables, to enable the prime recipient to meet its reporting obligations under the federal award. Pass-through entities must ensure that the delivery schedule of the fixed-amount award is sufficient for this purpose.
- Section 200.201(b)(5) specifies the prior approval requirements for a fixed-amount award. However, the COFAR FAQs allow pass-through entities to grant more than one subaward to the same subrecipient, even if the aggregate amount of fixed amount subawards to the same subrecipient exceeds \$150,000. In particular, the FAQs state: "It is acceptable to have more than one fixed amount subaward with the same subrecipient if necessary to complete work contemplated under a federal award. It is expected, however, that each fixed amount subaward will have its own distinct statement of work and be priced for the work and

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deliverables that will be due under that subaward, and that prior approval of the Federal awarding agency is required for each subaward issued under funding received on or after 12/26/14, as outlined in 200.332.”

Section 200.332 states that fixed amount awards over the Simplified Acquisition Threshold are not allowable.

### Recommended Approaches and Actions

#### UCOP

- Confirm that Federal Demonstration Partnership is revising its subaward templates.
- Review and revise the C&G Manual 7-220, as needed.
- Review and revise BUS-43, as needed.

#### Campuses

- Review and revise internal campus policies, instructions, checklists, templates, etc.
- Provide information above to department liaisons, PIs and Accounting.
- Campuses may have to revise their processes for determining whether a fixed-amount subaward can be issued in compliance with the requirements of §200.201.
- Campuses should provide training materials as to when it would be advisable to enter a fixed-amount agreement at the proposal stage versus later in the project period.
- Campuses need to add language to subagreement templates, stating that any changes in PI, project leader, project partner or scope of effort must receive written prior approval

### Citations

### Frequently Asked Questions

### What the PI Needs to Know

## Required Information

### Background

Sections 200.330 and 200.340 describe new approaches and new requirements with respect to classifying the work conducted under a federal award as either a subaward or a contract and the steps to be taken in the event that a subaward is terminated in advance of the end date.

### Issue

#### §200.330

Section 200.330 of the new Uniform Guidance outlines the criteria that prime awardees must apply in determining whether a disbursement of federal funds to a third party qualifies as either a subaward or a contract. These criteria are the same as those provided in the previous circular, A-133; however, the Uniform Guidance states explicitly that prime awardees must make case-by-case determinations as to whether a third party is a subrecipient or a contractor. The Uniform Guidance also notes that federal

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awarding agencies “may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with [§200.330].”

Whether a disbursement of funds qualifies as a subaward or a contract is important because payments made under a contract are not subject to the audit requirements of Subpart F of the Uniform Guidance. (See §200.501(f).) Additionally, whether a disbursement of funds is a subaward or a contract will determine whether, with respect to the disbursement, the university will have to abide by Subpart D’s Procurement Standards or Subpart D’s Performance and Financial Monitoring and Reporting and Subrecipient Monitoring and Management rules.

### Previous Circular

#### A-133 B.210(a)-(d)

An auditee may be a recipient, a subrecipient and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

- (b) Federal award. Characteristics indicative of a Federal award received by a subrecipient are when the organization:
  - (1) Determines who is eligible to receive Federal financial assistance;
  - (2) Has its performance measured against whether the objectives of the Federal program are met;
  - (3) Has responsibility for programmatic decision making;
  - (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
  - (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.
- (c) Payment for goods and services. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:
  - (1) Provides the goods and services within normal business operations;
  - (2) Provides similar goods or services to many different purchasers;
  - (3) Operates in a competitive environment;
  - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
  - (5) Is not subject to compliance requirements of the Federal program.
- (d) Use of judgment in making determination. There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or



vendor.

Uniform Guidance

§200.330

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

- (a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:
  - (1) Determines who is eligible to receive what Federal assistance;
  - (2) Has its performance measured in relation to whether objectives of a Federal program were met;
  - (3) Has responsibility for programmatic decision making;
  - (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
  - (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
- (b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
  - (1) Provides the goods and services within normal business operations;
  - (2) Provides similar goods or services to many different purchasers;
  - (3) Normally operates in a competitive environment;
  - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
  - (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
- (c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-

through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

### **§200.340**

Unlike the previous circulars, §200.340 of the Uniform Guidance requires that when terminating a federal award, federal awarding agencies, as well as pass-through entities, must provide a notice of termination to the recipient or subrecipient. The Uniform Guidance seeks to promote openness with respect to terminated awards by requiring the federal awarding agency to report a recipient's poor programmatic performance to "any other relevant governmentwide systems or entities" and to report the circumstances of the termination to "the Federal Web site established to fulfill the requirements of FFATA [the Federal Funding Accountability and Transparency Act]." Thus, if a recipient's award is terminated for failure to comply with federal law or the terms and conditions of the award, this failure to comply may affect the outcome of the recipient's or subrecipient's future grant proposals.

This notice of termination is a new requirement and, therefore, is not specified in A-21, A-110, or A-133.

### **Analysis and Conclusions**

#### **§200.330**

Section 200.330 provides essentially the same criteria as previously listed in A-133, B.210(b)-(d) for determining whether a non-federal entity qualifies as either a subrecipient or a contractor. Such determinations are dependent on the substance of the non-federal entity's agreements with federal awarding agencies and pass-through entities, and therefore, §200.330 notes that a pass-through entity must make these determinations on a case-by-case basis. See above, §200.22 and §200.23, for characteristics of a contractor (i.e., a vendor that provides goods and/or services) and §200.93 for characteristics of a subrecipient.

The Uniform Guidance does not explicitly require that pass-through entities document how and why a particular subrecipient/contractor determination was made. However, in preparation for potential audits, the best practice would be to retain some record that these determinations were made using the criteria supplied in §200.330.

Section 200.330 also provides that "the Federal awarding agency may supply and require subrecipients to comply with additional guidance" to determine whether an awardee is a subrecipient or a contractor, as long as such additional guidance does not conflict with §200.330. This, however, is not a major change from the guidelines provided in the previous circular because A-133, B.210 did not preclude federal agencies from imposing their own additional guidelines. A-133 merely did not explicitly state that agencies could do so. Consequently, this change in §200.330 may or may not lead to individual agencies imposing additional determination criteria.

#### **§200.340**

Upon termination of an award, the federal awarding agency or pass-through entity must provide to the non-federal entity a notice of termination. If termination was due to the non-federal entity's non-compliance, the notification must state that the termination may affect future funding proposals.

Paragraph (c)'s requirement that information about a non-federal entity's poor performance must be

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reported to any “relevant governmentwide systems or entities” applies only to federal awarding agencies; pass-through entities have no reporting responsibilities under §200.340(c).

### Recommended Approaches and Actions

#### UCOP

- Review, and revise if necessary, RPAC memo 85-31, RPAC memo 06-05, BUS-43 to ensure it is in compliance with §200.330.
- Check agency implementation plans as they are issued, and review UC guidance to ensure it does not conflict with sponsor implementation.
- Consult with campus personnel on a process to determine and certify whether a recipient of federal funds is a contractor or a subrecipient.

#### Campuses

- Campuses should review their current methods for making subrecipient/contractor determinations to ensure compliance with the new requirements. Campuses should also ensure that whoever makes these determinations (e.g., PIs, SPO officers or analysts) fully understands the distinctions between subrecipients and contractors, as defined in §200.330, and is documenting these determinations as they are made.
- Revise the “termination for cause” procedures to include a statement reflecting §200.340’s requirements.
- Monitor the Federal Demonstration Partnership subaward template updates.

### Citations

### Frequently Asked Questions

### What the PI Needs to Know

## Subrecipient Monitoring

### Background

Sections 200.331 and 200.521 address the requirements for subrecipient monitoring and auditing.

### Issue

#### **§200.331**

Section .331(d) requires pass-through entities (i.e., a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program) to take specific steps to ensure that the subaward is used for authorized purposes, in compliance with federal law, and that the goals of the subaward are achieved. The previous guidance, A-133, provided less prescriptive standards for subrecipient monitoring than the new Uniform Guidance.

#### **§200.521(d)**

As part of its monitoring responsibilities, if a pass-through entity conducts an audit of its subrecipient, the pass-through entity must issue to the subrecipient a management decision, which must include a

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written evaluation of the audit findings and a corrective action plan. The Uniform Guidance requires a management decision to be issued within six months.

### Analysis and Conclusions

Sections .331 and .521 require that pass-through entities engage in certain monitoring activity of their subrecipients. First, § .331(b) requires that pass-through entities “[e]valuate each subrecipient’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.” This section then suggests four factors — the subrecipient’s prior experience with subawards, the results of the subrecipient’s previous audits, whether the subrecipient has new personnel or systems and the results of any federal awarding agency monitoring — for consideration in evaluating the subrecipient’s level of risk. After completing this evaluation, this section requires the pass-through entity to monitor the subrecipient as necessary using the monitoring tools deemed most effective by the pass-through entity. Section .331(e) provides suggested monitoring tools — providing the subrecipient with training and technical assistance and performing on-site reviews — for achieving the necessary level of oversight.

Section .331(d)(1) requires pass-through entities to “review financial and programmatic reports” when a pass-through entity has required its subrecipient to submit such reports. This section does not, however, require pass-through entities to obtain these reports from subrecipients.

Sections .331(d)(2)-(3) also require pass-through entities to “[i]ssu[e] a management decision for audit findings pertaining to the Federal award” and to “[f]ollow[] up and ensur[e] that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award . . . [as] detected through audits, on-site reviews, and other means.” An audit in this context is not a routine internal review conducted by the pass-through entity of the subrecipient’s financial or programmatic progress. Rather, the references to audits and audit findings in § .331(d) refer to formal audits conducted by “a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS).” (See §§200.5, 200.7.) Thus, the monitoring activity requirements of this section apply when the pass-through entity has conducted a formal audit, internal review, on-site review or some similar monitoring method and has detected a deficiency. Nothing in the Uniform Guidance requires a pass-through entity to conduct audits, internal reviews, on-site reviews.<sup>1</sup>

Sections .521(c) and .331(d)(3) require pass-through entities to *issue* a management decision for audit findings, whereas A-133, D.405(c) required pass-through entities to *make* management decisions. This change in language appears to be merely stylistic. Section § .66 defines “management decision” as “the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.” Thus, by definition, the management decision is an evaluation *made* by the pass-through entity and then also *issued* by the pass-through entity to its auditee. Pass-through entities are not responsible for issuing management decisions for audit findings that are not related to the subaward.

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<sup>1</sup> However, § .331(f) does require pass-through entities to “[v]erify that every subrecipient is audited as required by Subpart F— Audit Requirements of this part when it is expected that the subrecipient’s federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements, [which is \$750,000].”

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Both the previous circular and § .521(d) require “[t]he Federal awarding agency or pass-through entity responsible for issuing a management decision [to] do so within six months of acceptance of the audit report by the FAC [Federal Audit Clearinghouse].” However, unlike the previous circular, which states that the auditee “*should*” initiate corrective action “within six months after receipt of the audit report and proceed as rapidly as possible,” § .521(d) states that the auditee “*must* initiate and proceed with corrective action as rapidly as possible and [that] corrective action *should* begin no later than upon receipt of the audit report.” Thus, §200.521(d) *requires* that the auditee initiate and proceed with corrective action as rapidly as possible. However, because of the section’s use of the word “should” instead of “must” in the second part of the last sentence, §200.521 merely suggests—and does not require—that such corrective action begin no later than upon receipt of the audit report.

### Recommended Approaches and Actions

#### UCOP

- Update and/or replace RPAC memo 06-05 and C&G Manual 16-431.

#### Campuses

- If their invoice templates do not contain sufficient language already, campuses may need to insert additional text in the signature line of the subaward invoice template stating that by signing the invoice and authorizing payment to the subrecipient, the PI certifies that the subrecipient’s performance goals have been achieved.
- Campuses may want to add additional text in the subaward agreement stating that by submitting a signed invoice, the subrecipient certifies that all necessary performance goals have been reached and all activities funded by the sub-award were carried out for authorized purposes.
- Some training for faculty in properly monitoring and evaluating subrecipients’ programmatic performance might be necessary.
- Subaward agreements will need to include an audit section with details on what needs to be provided to the pass-through entity if there are audit findings and the timeframe in which the subrecipient should begin corrective action.

#### [Citations](#)

#### [Frequently Asked Questions](#)

#### [What the PI Needs to Know](#)

## 5. Facilities and Administrative Costs

### Background and Issue

Uniform Guidance makes the application of federally negotiated F&A rates mandatory by federal agencies and flow-through entities. This position is supported by new rules that limit cost sharing.

The budget category of Participant Support Costs was previously an NSF-centric budgeting concept that is now being implemented throughout the federal costing standards. The broader implementation

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of Participant Support Costs results in a revised definition of Modified Total Direct Costs under federal cost-accounting standards.

### Analysis and Conclusions

Uniform Guidance rules concerning F&A advance progress in achieving greater cost recovery under federal funding, and establishes greater uniformity in budgeting across federal agencies.

- I. Direct and indirect recipients of federal funding can now assert federal-wide cost-accounting rules to ensure that F&A rate agreements are honored and cost sharing is not forced upon a subrecipient.
  1. Per §200.414(c)(1): “The negotiated [F&A] rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification.”
  2. Any reduction of F&A recovery is understood as a type of cost-sharing, whether voluntary or by agency mandate. Uniform Guidance adopts the National Science Foundation’s approach where “voluntary committed cost sharing” is “not expected.” This strengthens the principal that an entity is always permitted to apply its F&A rate agreement, whether as the direct recipient of the funding or as the recipient of a subaward.
    - i. Per §200.99: “Voluntary committed cost sharing means cost sharing specifically pledged on a voluntary basis in the proposal’s budget or the Federal award on the part of the non-Federal entity and that becomes a binding requirement of Federal award.”
    - ii. Per §200.306(a): “Under Federal research proposals, voluntary committed cost sharing is not expected.”
  3. Pass-through entities are explicitly required to honor other entity’s F&A rates or the new 10% de minimis rate for entities without a rate agreement
    - i. Per §200.331(a)(4), “pass-through entities must” include “[a]n approved Federally recognized indirect cost rate negotiated between the subrecipient and the Federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined.”
- II. “Participant Support Costs,” previously a NSF budgeting concept, is now being implemented throughout the federal costing standards. This impacts the definition of Modified Total Direct Costs (MTDC) and is consequential not only to proposal/award budgeting but to how indirect costs are calculated in the rate proposal process.
  1. Per §200.68, Modified Total Direct Cost (MTDC) “means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and

## UNIFORM GUIDANCE WORKGROUP ASSESSMENT REPORT

subcontracts up to the first \$25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts 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 and subcontract in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.”

2. Per §200.75 : Participant support costs refer to the direct costs for items such as 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.

### Recommended Approaches and Actions

#### UCOP

- Revise Chapter 8 C&G Manual.
- Provide online guidance on “honoring F&A” from federal, subaward, and MCA levels.
  - Guidance on how to deal with other universities (elevate to UCOP, maybe provide a template letter).
  - Articulate that UC will honor the de minimis rate if no rate agreement is in place.
- Does the change in Participant Support to cover all federal agencies affect how financial reports are run?
- Participant Support Cost should be accounted for in the F&A rate negotiation (it should be excluded from the base).
- If administrative salaries are direct charged, are they coded so that those charges will not be included in the IDC rate proposal?
- Ensure procedures within F&A exception process do, not permit voluntary committed cost-sharing on federal funds that fall under Uniform Guidance, consistent with UC policy.
  - Under the implementation of the rearticulated IDC policy, it is anticipated that any F&A exception involving federal funds must be routed to UCOP for review and approval. REMS and any guidance should clearly articulate that campuses should not seek a reduction of IDC on a federal grant unless the federal agency has permitted this cost-sharing.
  - Until Participant Support Costs are added as exclusion in UC’s F&A rate agreements, the pending Verified Sponsor Policy list should include an entry for Participant Support costs under federal grants where such costs were not excluded from the base.

#### Campuses

- Educate! Ensure all levels of the research administration enterprise and PIs understand that it is generally inappropriate to reduce IDC on federally funded awards.

#### [Citations](#)

#### [Frequently Asked Questions](#)

#### [What the PI Needs to Know](#)



## 6. Prior Approvals

### Background

This section provides a list of circumstances that require prior written approval of the federal entity (awarding agency or cognizant agency) before such action can be taken by the non-federal entity.

### Analysis and Conclusions

Many of these prior approval requirements outlined in §200.407 are not new and have not changed from previous circulars. This analysis will focus on those requirements that are new or have changed.

New or revised circumstances requiring prior approval:

- §200.306 Cost sharing or matching
- §200.307 Program income
- §200.308 Revision of budget and program plans
- §200.332 Fixed amount subawards
- §200.430 Compensation—personal services
- §200.431 Compensation—fringe benefits
- §200.438 Entertainment costs
- §200.439 Equipment and other capital expenditures
- §200.440 Exchange rates Exchange rates
- §200.442 Fund raising and investment management costs
- §200.445 Goods or services for personal use
- §200.454 Memberships, subscriptions, and professional activity costs
- §200.456 Participant support costs

#### **§200.306 Cost sharing or matching**

Cost sharing is not permitted unless it is both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity. It cannot be used as a factor during the merit review of applications or proposals. If cost sharing is permitted prior approval of the Federal agency is required to use the unrecovered indirect costs to meet the cost sharing or matching.

Campuses will need to include this request to use the unrecovered indirect cost to offset the cost-share component of the award as part of their proposal submission if these costs are to be used as part of the project's cost share.

#### **§200.307 Program income**

This section identifies the principles and examples of what can and cannot be considered program income. Paragraph (e) of this section states:

For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply.

Paragraph (e)(2) states:

Addition. With prior approval of the Federal awarding agency, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

Federal awarding agencies are therefore required to use the additive treatment when making awards to the university, however, the language in paragraph (e )(2), which is subtly different than what is

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described in 2 CFR 215.24, implies that the university would need to secure prior approval for this treatment of program income.

### **§200.308 Revision of budget and program plans**

(3) The disengagement 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.

Given the change in the language, this might increase the administrative burden on the campus. "Absence" is replaced with "disengagement," which means the PI can be away from campus and still remain engaged in the project. This could result in increased monitoring of the PI's contact with a project when away from the campus for extended periods. Conversely, the change in the language allows for more flexibility in when prior approval is needed and the reduction of that administrative burden may offset any potential additional monitoring.

(5) The transfer of funds budgeted for participant support costs as defined in §200.75 to other categories of expense.

Prior approval is waived under the current agency-specific prior approval matrix, "rebudgeting among budget categories", for training costs. However, participant support is broader than just training, e.g. conference support.

(7) Changes in the amount of approved cost-sharing or matching provided by the non-Federal entity. No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB. See also §§200.102 Exceptions and 200.407 Prior written approval (prior approval) Prior approval is required for rebudgeting cost-sharing because it is not a budget category.

### **§200.332 Fixed amount subawards**

Prior approval is required to issue fixed amount subawards up to \$150,000, provided requirements of 200.201 are met.

This is a new restriction; previously awardees were able to use fixed amount awards as circumstances dictated and with no upper bound. With the Uniform Guidance, campuses will not be able to issue fixed amount subawards that exceed the Simplified Acquisition Threshold (\$150,000). Should campuses contemplate using a fixed amount subaward, then that request would need to be included specifically in the application, or requested of the awarding agency after award. (See section 4.a Fixed Price Awards of this document for further discussion of this topic.)

### **§200.413 Direct costs, paragraph (c)**

Paragraph (c) allows direct charging of administrative or clerical costs if the following conditions are met.

"(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."

Such costs must be explicitly included in the budget or have received prior approval of the federal awarding agency. This is a significant and welcome change, though it will require changes to procedures, guidance and training on campuses. Further, since this will be a change to our charging practices, the DS-2 will need to be reviewed. If necessary it will need to be updated and submitted for

approval. Per the COFAR FAQs, non-federal entities may charge administrative or clerical costs after the implementation date of the Uniform Guidance, if the DS-2 has been submitted to the cognizant agency for review.

**§200.430 Compensation—personal services, paragraph (h)**

(h)(1)(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (h)(9) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or **receive prior written approval** by the Federal awarding agency.

Incidental activities for which supplemental compensation is allowable under written institutional policy. Charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the Institutional Base Salary (IBS) for the period during which the faculty member worked on the award and requires prior approval if not included in the award budget

**§200.431 Compensation—fringe benefits –**

(b)(3)(i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable as indirect costs in the year of payment.

The university uses a monthly assessment method to fund vacation leave costs. The monthly assessment is made against each fund source from which salaries are paid. Therefore, this change has minimum impact to the university.

**§200.438 Entertainment costs**

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

The additional language recognizes that charges that could be considered entertainment costs have a legitimate place in some research projects. Where possible, these costs will need to be included in the applications to the funding agency or be the subject of a prior approval request after the award has been made.

**§200.439 Equipment and other capital expenditures**

(a) See §§200.13 Capital expenditures, 200.33 Equipment, 200.89 Special purpose equipment, 200.48 General purpose equipment, 200.2 Acquisition cost, and 200.12 Capital assets. **[Not in A-21 or A-122]**

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See §200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465 Rental costs of real property and equipment

This is fundamentally the same. However, this may be an opportunity to clarify what is already in practice.

**§200.440 Exchange rates**

- (a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding, and prior approval by the Federal awarding agency. The Federal awarding agency must however ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act.
- (b) The non-Federal entity is required to make reviews of local currency gains to determine the need for additional Federal funding before the expiration date of the Federal award. Subsequent adjustments for currency increases may be allowable only when the non-Federal entity provides the Federal awarding agency with adequate source documentation from a commonly used source in effect at the time the expense was made, and to the extent that sufficient Federal funds are available.

**§200.442 Fund raising and investment management costs;**

- (a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred [“solely” deleted from A-122 and A-21] to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. Proposal costs are covered in §200.460 Proposal costs. [Not in A-21 or A-122]
- (b) Costs of investment counsel and staff and similar expenses incurred [“solely” deleted from A-122 and A-21] to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Part. . [Not in A-21 or A-122]
- (d) Both allowable and unallowable fund raising and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in §200.413 Direct costs. . [Not in A-21 or A-122]

The issues related to the sections above are unlikely to occur, but if they do, prior approval is required.

**§200.445 Goods or services for personal use**

- (b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.

This revision removed language from A-122 restricting the cost of housing to “when necessary for the performance of the sponsored award”. This circumstance is unlikely to occur in a university setting, but if it does, prior approval is required.

**§200.447 Insurance and indemnification**

**§200.454 Memberships, subscriptions, and professional activity costs**

- (c) Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.

[Not in A-21 or A-122]

**§200.456 Participant support costs**

Participant support costs as defined in §200.75 Participant support costs are allowable with the prior approval of the Federal awarding agency.

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Participant support costs means direct costs for items such as 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.

The Uniform Guidance codifies the idea of “participant support” on a federal-wide basis. Previously it had been used exclusively by the National Science Foundation. Guidance will be needed to define what costs are appropriately in the participant support category and to clarify that those charges are not included in the modified total direct cost base.

### **§200.458 Pre-award costs**

Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work [A-122 reads, “to comply with the proposed delivery schedule or period of performance.”]. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.

### **§200.467 Selling and marketing costs**

Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under §200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

The issues related to the section above are unlikely to occur, but if they do, prior approval is required.

### **§200.474 Travel costs**

- (a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-Federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award. [Highlighted A-21 but not in A-122].
- (b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. (Essentially in A-21 but not in A-122) (Highlighted section is not in A-21 or A-122) In addition, if these costs are charged directly to the Federal award documentation must justify that:
  - (1) Participation of the individual is necessary to the Federal award; and
  - (2) The costs are reasonable and consistent with non-Federal entity's established travel policy. [Not in A-122]
- (c)(1) 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:
  - (i) The costs are a direct result of the individual's travel for the Federal award;

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- (ii) The costs are consistent with the non-Federal entity's documented travel policy for all entity travel; and
- (iii) Are only temporary during the travel period.
- (2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also §200.432 Conferences.
- (3) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under [5 U.S.C. 5701-11](#), ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards ([48 CFR 31.205-46\(a\)](#)).

Overall travel section needs to be compared with UC and campus travel policies/procedures.

Section (c)(1) Temporary dependent care costs is new. At this juncture, the university of California has no policy that addresses this issue and therefore campuses are not able to include these charges in awards. Guidance to that effect will need to be issued. Further, the appropriate offices in the Office of the President will need to review the issue to determine if a temporary dependent care policy needs to be developed.

### Recommended Approaches and Actions

#### UCOP

- Update the Contract & Grant Manual and guidance memos as necessary to conform with the changes in the Uniform Guidance.
- Suggest that the sponsored project offices on the campuses be the primary group to disseminate any new guidance and campus training as appropriate.
- Define "engagement" (Section §200.308) and explore the need for monitoring a PI's engagement with the project.
- Guidance will be needed to define what costs are appropriately in the participant support category and to clarify that those charges are not included in the modified total direct cost base.
- The overall travel section needs to be compared with UC travel policies/procedures.
- University of California does not currently have a policy that addresses temporary dependent care costs; therefore, campuses are not able to include these charges in awards. Guidance to that effect will need to be issued to campuses. Further, the appropriate offices in the Office of the President will need to review the issue to determine if a temporary dependent care policy needs to be developed.

#### Campuses

- Sections requiring training to campuses:
  - §200.308 Revision of budget and program plans
  - §200.332 Fixed amount subawards
  - §200.413 Direct costs, paragraph (c)
- Educate campus research administrators on the use of the FDP Prior Approval Matrix when it becomes available.
- If there is a cost-share component of the award and campuses wish to use unrecovered indirect costs to offset it, requests to do so will need to be included in the proposal submission.
- If a fixed amount subaward is desired, the best practice would be to include the request in the proposal budget and/or justification. If contemplated after the award is made, campuses will have to submit a prior approval request to the agency.
- Campuses will have to review their DS-2 to account for the change in direct charging of administrative costs (200.413).

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- The overall travel section needs to be compared with campus travel policies/procedures.
- University of California does not currently have policy that addresses temporary dependent care costs; therefore, campuses are not able to include these charges in awards. Guidance to that effect will need to be issued to department administrators.

### [Citations](#)

### [Frequently Asked Questions](#)

### [What the PI Needs to Know](#)

## 7. Pre-award: Mandatory Disclosures

### Background

The System for Award Management (SAM) is the official U.S. government system that consolidated the capabilities of multiple federal online tools (e.g., Online Representations and Certifications Application, Central Contractor Registration). If an organization wishes to enter into a contractual agreement with the federal government, they must register in the SAM. As part of the SAM, the university is required to disclose certain information to the federal government and make annual representations/certifications.

### Issue

Non-federal entities must disclose, in a timely manner, in writing to the awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery or gratuity violations potentially affecting the award.

### Analysis and Conclusions

Previous Circular – Not in A-21, A-122 or A-133 - new requirement.

May not know this until the individual agencies put forth their own implementation. NIH is linking Commons profile to SAM in the near future.

### Recommended Approaches and Actions

#### UCOP

- Review federal agency implementation plans.
- Discuss with General Counsel to help define “violation,” “fraud,” etc.

#### Campus

- Training and education of Investigators and campus
- Review current process for compliance with UG

### [Citations](#)

### [Frequently Asked Questions](#)



## 8. Internal Control

### Background

"Internal Control" is one of the most frequently repeated phrases in the Uniform Guidance. In the previous circulars, Internal Controls was mainly cited as an audit requirement in A-133, often considered by entities only after the funds had been spent. In the Uniform Guidance, OMB clearly emphasizes the importance of Internal Controls, by defining them, clearly identifying source documentation for best practices, and including internal controls in the post award management standard requirements.

The Uniform Guidance also requires entities to safeguard protected personally identifiable information (PII) and other sensitive information (included with Internal Controls). PII is defined as information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public websites, and university listings. This type of information is considered to be Public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual. Protected PII is defined as an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, biometrics, date and place of birth, medical and financial records, and/or educational transcripts.

The loss of PII can result in substantial harm to individuals, including identity theft or other fraudulent use of the information and we have a special responsibility to protect that information from loss and misuse. The Uniform Guidance explicitly requires non-federal entities to take reasonable measures to safeguard PII.

### Issue

The requirement is that non-federal entities must establish and maintain effective internal controls over federal awards that provide reasonable assurance that awards are being managed in compliance with federal statutes, regulation and the terms and conditions of the federal award. Additionally, institutions must take reasonable measures to safeguard PII and other information deemed sensitive.

### Analysis and Conclusions

The Uniform Guidance defines Internal Control as a process designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations

As noted above, the Uniform Guidance identifies the sources for internal control guidance. The Standards for Internal Control in the federal government, known as the "Green Book," sets the standards for an effective internal control system for federal agencies. The Committee of Sponsoring Organizations (COSO) Framework is designed to be used by organizations to assess the effectiveness

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of their systems of internal controls. The framework contains seventeen principles grouped into five integrated components for Internal Control:

1. Control Environment
2. Risk Assessment
3. Control Activities
4. Information and Communications
5. Monitoring

These components along with an organization's objectives and structure afford a clear framework for institutions to follow when designing systems of internal controls and provide the auditors with the same framework against which to evaluate those controls. This is a much more explicit internal control requirement for auditees than that described in previous guidance.

The University of California is entrusted with great resources and commensurately has great responsibilities for the creation, dissemination, and preservation of knowledge. Business Officers play a key role in assuring that high standards of business and ethical practices permeate throughout the activities surrounding the custody and use of these resources. UCOP developed [Understanding Internal Controls](#) to assist employees in their stewardship role in achieving the university's objectives. It also serves to provide guidance for the existence of basic and consistent business controls throughout the university and to define our responsibilities for managing them.

As described above, entities are responsible for protecting personally identifiable information as well as any information designated as sensitive. As such, UC must take reasonable measures to safeguard Protected PII and other information deemed sensitive. In addition, UC must ensure and certify that audit reporting packages do not contain Protected PII.

### **Recommended Approaches and Actions**

Review internal controls through identification and assessment. Strengthen internal controls as necessary. Acceptable audits in previous years should not be relied upon as an indication that internal controls are sufficient.

UC should also review policies and procedures to determine if they adequately address protecting PII. Identify information systems and reports that could contain Protected PII and other sensitive information and assess the controls in place. Determine whether existing policies and/or controls need to be strengthened or do new policies and/or controls need to be created to ensure compliance.

### **UCOP**

- Determine and form the appropriate group to perform the review
- Identify COSO and Government Accountability Office (GAO) internal controls.
- Update UC's [Understanding Internal Controls](#) for COSO's May 2013 update if necessary.
- Develop initial assessment of systemwide internal controls.
- Identify systemwide best business practices supporting internal controls.
- Develop internal control assessment tool for use by campuses and other users to determine whether there is reasonable assurance that internal controls are in place. Are they effective? Do they need to be strengthened?
- Determine what specifically is considered Protected PII and other sensitive information.
- Identify what "reasonable safeguard measures" are.
- Identify any systemwide policies, guidance, and controls in place.
- Update or create policy at systemwide level.

### **Campuses**

- Complete internal control assessment tool to determine whether there is reasonable assurance that internal controls are in place prior to FY 16. This would include a comprehensive assessment of policies, procedures, training and systems.
- Are they effective? Do they need to be strengthened?
- Take action to strengthen inadequate controls.
- Inform key campus personnel of any substantive changes made as a result of the assessment.
- Identify/ verify whether each campus has a local PHI/Protected PII policy.
- Ensure policy and procedures are in place.
- Update training materials as necessary

### Resources –

- UC [Understanding Internal Controls](#)
- Standards for Internal Control in the federal government issued by the Comptroller General of the United States
- Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)
- Appendix XI Compliance Supplement.

### [Citations](#)

### [Frequently Asked Questions](#)

### [What the PI Needs to Know](#)

## **9. Financial Management and Reporting**

### **Background**

To reduce both administrative burden and risk of waste, fraud and abuse, Uniform Guidance emphasizes performance goals and performance reporting, standardized requirements and stronger oversight. Financial Management provides for effective control and accountability.

Viewed as excessively burdensome for non-federal entities, separate depository accounts for funds is not required by the Uniform Guidance, provided the institution can account for the receipt, obligation, and expenditure of funds. Uniform Guidance still requires interest earned on federal advanced payments to be remitted annually to the Department of Health and Human Services (DHHS) but raised the amount to in excess of \$500. It also reinforces the requirement that income resulting from federally funded activities earned during an award period must be accounted for in accordance with the terms and conditions of the award and federal regulations

In monitoring and reporting program performance, more specific language is included to encourage evidence-based program design. Agencies should use OMB approved information collection standards and submission frequency is largely unchanged.

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To help strengthen federal agency policies on closeout, in addition to clarifying language that the non-federal entity has 90 calendar days from the end date of the performance period to submit all final reports, Uniform Guidance provides the federal agency or pass-through entity one year to complete all closeouts and adds a limit to post-closeout adjustments of three years.

To better mitigate risks of waste, fraud, and abuse, required certification language includes specific language acknowledging the statutory consequences of false certification, which must be signed by an official who is authorized to legally bind the non-federal entity. Prior requirement in A-21 was for a more ambiguously defined “authorized official” to certify reports and vouchers.

### Issue

**Interest:** The Uniform Guidance allows institutions to retain interest up to \$500 per year for administrative expense. However, the administrative burden associated with tracking the \$500 is likely to outweigh the benefit to UC campuses.

**Program income:** The Uniform Guidance provides the “additive” method as default in absence of agency guidance. The additive method is generally more favorable to the recipient. Under this method income may be added to the award but must be used for the purposes and under the conditions of the federal award.

**Residual supply:** If there is a residual inventory of unused supplies exceeding \$5,000 which are not needed for any other federal award, the non-federal entity must retain the supplies for use on other activities or sell them. In either case, the federal government must be compensated for its share.

**Program performance:** The primary differences in the OMB A-110 Monitoring and Project Reporting requirements and the Uniform Guidance requirements include an increase in breadth of necessary monitoring, more prescriptive progress reports that utilize OMB-approved reporting templates, including the *Research Performance Progress Report (RPPR)*, and specific identification of both negative impacts and delays as well as significant project successes that speed up timelines or decrease overall costs of the projects, which must be immediately reported to the federal sponsoring agency. Recipients must provide cost information to demonstrate cost-effective practice. Performance must be measured in a way that will help the federal awarding agency and pass-through entities to improve program outcomes, share lessons learned, and spread the adoption of promising practice.

**Closeout:** The 90-day closeout requirement is not technically a new requirement; however, section (g) requires the federal awarding agency or pass-through entity to complete closeout within one year of receipt of final reports. This new language introduces a definite standard on federal awarding agencies to closeout awards timely. Impact on recipients will include federal payment systems (ASAP, PMS, etc.) removing funding authorizations promptly and therefore preventing recipients from drawing cash outside of the closeout period.

**Post-close adjustment:** federal agency or pass-through entity must make cost disallowance determination and notify the non-federal entity within the record retention period. This section does not relieve the non-federal entity of the obligation to return any funds due as a result of refunds, corrections or indirect rate adjustments, nor does it relieve the recipient’s post-closing responsibilities.

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**Certification:** 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, which contains language that the official may be subject to criminal, civil or administrative prosecution for fraud, false statements, false claims or otherwise. The language in the certification is new, and in the opinion of COGR it is “inappropriately confrontational”.

### Analysis and Conclusions

**Interest:** Generally all interest earned is returned to the Department of Health and Human Services annually. Uniform Guidance has raised the amount of interest earned that recipients may retain for administrative expenses from \$250 to \$500 annually. The administrative costs associated with managing the retention of \$500 annually far exceed the benefit, therefore it is anticipated that campuses will simply return all earned interest to the federal government (via DHHS).

**Program income:** Applicable methodology: Previous Circular – A-110 subpart C.24 did not specify a preference for any specific methodology. The UG has identified “additive” as the applicable method for IHEs in the absence of a methodology being specified in agency regulations or terms and conditions. As the additive method is generally more favorable to the recipient this is a positive clarification. While the inclusion of license fees and royalties on patents and copyrights as part of the definition of program income appears to have created an inconsistency with the Bayh-Dole Act (35 USC 202(c)(7)), OMB and COFAR’s FAQ clarifies that income from license fees and royalties on research funded by a federal award should be excluded from the definition of program income.

**Unused supplies:** The language in the previous Circular – A-110 subpart C.35 (a) – is essentially the same. The new language updates or eliminates wording to reflect current language. The changes do not alter the original directive to the grant recipient.

Because this language does not represent a change to prior requirements of grant recipients, most campuses should have policies or procedures in place ensuring compliance. In cases where a campus does not have sufficient procedures for identifying potential inventory at closeout, close out procedures should be strengthened to ensure compliance. Additionally, training related to this topic should be made available in relation to new procedures which were developed in response to the uniform guidance as well as training reminding campuses of existing procedures which are in place to comply with this regulation.

It should be rare that a principal investigator purchases supplies which will not be completely consumed by the project under which they were purchased. Direct costing rules generally dictate that all supplies purchased to support a specific project are used entirely in support of that project; therefore, it is expected that campuses will not have to routinely refund the federal government.

However, because this situation could occur, it is recommended that campuses have procedures developed for how the value of the supplies is determined, in compliance with 200.313 Equipment; for how the funds are returned; and for the frequency with which the refunds are made.

**Program performance:** The new language essentially emphasizes the institutional requirement to ensure progress is being made on federal programs in accordance with all federal requirements and adds that the institution monitor the achievement of performance expectations. Because performance is normally captured in progress reports, the emphasis in the new monitoring language appears to expect institutions to have a mechanism in place to ensure the timely preparation and submission of progress

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reports in accordance with sponsor requirements. Depending on how the audit community decides to review the “monitoring and oversight” of progress reports, campuses may need to implement some sort of tracking system and/or explicit role and responsibility documents to show the campus’ identified monitoring approach.

The frequency (at least annually and no more frequently than quarterly) and timing of federal reports remains unchanged with 90 days after project end date for delivery of final progress reports and 30 days after an identified term for interim reports.

However, the new rules are more prescriptive to federal agencies about the format and content of progress reports stating that OMB approved templates and/or the new RPPR tool be used to collect these reports. Reporting requirements for both construction and non-construction programs are more prescriptive as well but details are still left to the individual federal sponsors so long as they utilize approved OMB reporting tools. This will have an impact on faculty as agencies revise their templates and requirements as required by the new Uniform Guidance.

There is a change in when the federal agencies expect to receive immediate reports from a recipient. While the A-110 C.51 (f) emphasizes significant and NEGATIVE project impacts, including the requirement to report cost overruns, the UG continues to require the above significant impacts for immediate reporting and adds in §200.328(d)(2) FAVORABLE developments.

New language in the UG also expressly allows a federal agency to waive receipt of a report or to grant an extension to a report deadline requirement.

**Closeout:** Campuses must complete final reporting, invoicing, and cash draws within 90 days of the end of the performance period or risk not being able to recover funds expended. Meeting the 90 day deadline can be very challenging for campuses especially when managing payments to subrecipients.

**Post-close adjustments:** Revised language in the Uniform Guidance adds the requirement that the federal awarding agency or pass-through entity must make any cost disallowances and notify the non-federal entity within the record retention period. The original guidance in A-110 did not have a time frame during which this must happen. Additionally, language has been added to notate that federal awarding agency expects a refund due to adjustments to final indirect rate negotiations. This language was not a part of the original guidance, although it has always been implied.

**Certification:** While A-21 requires certifications by an authorized official, UG language requires certification by “an official who is authorized to legally bind the non-federal entity”. It is not clear if existing delegations are sufficient. Additionally, the language in the new guidance is punitive in nature, potentially resulting in personal liability for those who certify on behalf of the institution. There is concern about who exactly is authorized according to both the guidance and internal University of California policy. This is unclear at this time. The FAQ’s released 8/29/14 by COFAR states: *“It is up to the non-Federal entity to determine how best to establish the authority to legally bind the non-Federal entity.”* The guidance in addition to the clarification may require signature authority delegation or a change in process flow at the campus level.

### Recommended Approaches and Actions

#### Program income:



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- Establish and implement program income guidelines for all UC campuses including detailed process of methods of accounting and reporting for program income.
- A system configuration may be necessary to ensure proper accounting as well as accurate, complete, and consistent recording and reporting of program income to the federal sponsors.

### **Closeout and unused supplies:**

- Update or establish close out procedures to ensure compliance with this section.
- Update or establish regular training sessions related to campus procedures established in response to this section
- Unified closeout guidelines should be established across all UC campuses.

### **Certification:**

- Review current delegations of authority to determine who at each campus could both legally bind the institution and attest to knowledge of appropriate expenditures on awards.
- Consult with the Office of General Council to determine the actual legal liability faced by the individual(s) who will be tasked with signing the certification.

### **UCOP**

- Determine if current policy update is necessary. AM [C-557-21](#) currently states interest be returned to federal government at least quarterly, but it does not speak to retaining \$250 under A-110.
- Establish and implement UC-wide program income policy
- Revise the Contracts and Grants Manual 2-700
- Determine if current signature authority for extramural funds is sufficient to comply with the new UG requirement that official signing be authorized to “legally bind” the non-federal entity. If not seek authorization for those individuals. The authorization must be in place by the effective date of the Uniform Guidance.
- Seek advice from the Office of General Counsel to clarify the legal ramifications of signing such a statement. Additionally, procedures should be established for the defense of individuals by the university in cases where they are pursued legally by the federal agencies for certifying on behalf of the university.

### **Campuses**

- Confirm procedures are in place to remit interest earned to DHHS.
- Ensure the accounting system is properly configured to accurately account for, record and report program income.
- Develop local policy and/or procedures to monitor the timely submission of progress reports in accordance with sponsor requirements.
- Discuss changing subaward templates to encompass a 45 day final invoicing requirement.
- Enhance established procedures to ensure final cash draws are performed within 90 days of award expirations.
- Enhance established closeout procedures and related training to ensure compliance.



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- Implement appropriate delegation of authority to allow necessary individuals to certify financial reports and vouchers.

### **Next Steps**

- Seek clarification whether interest is to be tracked per award, per agency or net of losses. This could impact whether retention of the interest earned is potentially beneficial to campuses. It would also provide clarification for those campuses who are operating on the assumption that the threshold applies to net interest earnings across all federal agencies.
- Campus provides OP with a draft of program income guidelines to review and, if approved, the guidelines will be posted on the OP website.
- Campuses discuss the suggested 45-day template change for subcontracts.
- Campuses notify all constituents who are involved in the closeout process of the now strict 90 day closeout deadline.
- Perform analysis on unified closeout guidelines for UC-wide campuses.
- Campuses share best practices

### **Citations**

### **What the PI Needs to Know**

## CITATIONS

### Allowable/Un-Allowable Direct Costs

#### Participant Support

##### §200.75 - Participant support costs

Participant support costs means direct costs for items such as 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.

##### §200.456 - Participant support costs

Participant support costs are allowable with prior approval of the Federal awarding agency.

#### Computing Devices

##### §200.20 - Computing devices

Computing devices means machines used to acquire, store, analyze, process and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information.

##### §200.453 – Materials and supplies costs, including costs of computing devices

(c) 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.

#### Administrative and Clerical Salaries

##### §200.413 – Direct Costs

(c) The 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:

- (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 prior written approval of the Federal awarding agency; and
- (4) The costs are not also recovered as indirect costs.

##### §200.430 – Compensation – Personal services

(h)(1)(i) Allowable activities. Charges to Federal awards may include reasonable amount for activities contributions and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animal, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(i) Standards for Documentation of Personnel Expenses

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both Federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

## **Publication and Printing**

### §200.461 – Publication and Printing Costs

(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the non-Federal entity.

(b) Page charges for professional journal publications are allowable where:

(1) The publications report work supported by the Federal government; and

(2) The charges are levied impartially on all items published by the journal, whether or not under a Federal award.

(3) The non-Federal entity may charge the Federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award.

## **Visas**

### §200.463 – Recruiting Costs

(d) Short-term, travel visa costs (as opposed to long-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a Federal award. For these costs to be directly charged to a Federal award, they must:

(1) Be critical and necessary for the conduct of the project;

(2) Be allowable under the applicable cost principles;

- (3) Be consistent with the non-Federal entity's cost accounting practices and non-Federal entity policy; and
- (4) Meet the definition of "direct cost" as described in the applicable cost principles.

## **Procurement (includes Conflict of Interest)**

### §200.318

- (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
- (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

- (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into State and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
  - (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- (j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:
  - (i) The actual cost of materials; and
  - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- (2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- (k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a

Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

Related UG policy – 200.112 Conflict of Interest: “The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.”

§200.319

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement.



The specific features of the named brand which must be met by offers must be clearly stated; and

- (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

#### §200.320

(a) Procurement by micro-purchases: Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures: Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed-amount contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-amount or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity;  
or
- (4) After solicitation of a number of sources, competition is determined inadequate.

#### §200.323

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

For complete text, see [http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1&rgn=div5#sg2.1.200\\_1316.sg3](http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1&rgn=div5#sg2.1.200_1316.sg3)

## **Previous Circulars**

### A-102

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of § 92.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section pre-empts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a

means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

- (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

#### A-110.43 - Competition

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

#### A-110.45 Cost and price analysis

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

#### **Related UG policy**

- 200.67 for definition of Micro-purchase,
- 200.325 for Construction, Bonding Requirements

### **Pre-procurement review**

§200.324(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

- (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

- (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review."

## Equipment

### §200.453

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 allowed for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award.

### §200.439(b)(1)

Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through-entity.

### §200.439(b)(6)

Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

### §200.313(e)(2)

The final sentence states that, "[i]f the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses."

### §200.312(c)

Exempt Federally-owned property means property acquired under a Federal award the title based upon the explicit terms and conditions of the Federal award that indicate the Federal awarding agency has chosen to vest in the non-Federal entity without further obligation to the Federal government or under conditions the Federal agency considers appropriate. The Federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the Federal award, title to exempt Federally-owned property acquired under the Federal award remains with the Federal government."

Previously, under A-110 (33) (b) "When statutory authority exists, the Federal awarding agency has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions the Federal awarding agency considers appropriate. Such property is "exempt property." Should a Federal awarding agency

not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.”

**Related UG policy**

§200.313 (a) [Non-Exempt Property]

Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal government, and the Federal agency elects to do so, the title must be a conditional title.” Per the COFAR webinar on October 2, 2014, conditional title vests with the grantee if the following conditions are met. Moreover, title is contingent upon the requirements outlined in §200.439 and the applicable procurement standards.

- (1) Use the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.
- (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
- (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

§200.313(d)(1)

Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.”

**Previous Circular**

A-110, C.34

§200.313(c)(d)(e)

(c) Use. (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

- (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

(ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-Federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal government retains an interest in the equipment.

(4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes,

regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
- (2) Except as provided in §200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

## Subawards

### Previous Circular

#### 2 CFR 215 (formerly OMB Circular A-110) B.11(a)

Use of Grants and Cooperative Agreements, and Contracts. In each instance, the Federal awarding agency shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

### Uniform Guidance Citations

#### §200.201



Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

- (a) The Federal awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or contract) in accordance with the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08).
- (b) Fixed Amount Awards. In addition to the options described in paragraph (a) of this section, Federal awarding agencies, or pass-through entities as permitted in §200.332 Fixed amount subawards, may use fixed amount awards (see §200.45 Fixed amount awards) to which the following conditions apply:
  - (1) Payments are based on meeting specific requirements of the Federal award. Accountability is based on performance and results. The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. Except in the case of termination before completion of the Federal award, there is no governmental review of the actual costs incurred by the non-Federal entity in performance of the award. The Federal awarding agency or pass-through entity may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the non-Federal entity will realize no increment above actual cost. Some of the ways in which the Federal award may be paid include, but are not limited to:
    - (i) In several partial payments, the amount of each agreed upon in advance, and the ‘milestone’ or event triggering the payment also agreed upon in advance, and set forth in the Federal award;
    - (ii) On a unit price basis, for a defined unit or units, at a defined price or prices, agreed to in advance of performance of the Federal award and set forth in the Federal award; or,
    - (iii) In one payment at Federal award completion.
  - (2) A fixed amount award cannot be used in programs which require mandatory cost sharing or match.
  - (3) The non-Federal entity must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed or the level of effort was expended. If the required

level of activity or effort was not carried out, the amount of the Federal award must be adjusted.

(4) Periodic reports may be established for each Federal award.

(5) Changes in principal investigator, project leader, project partner, or scope of effort must receive the prior written approval of the Federal awarding agency or pass-through entity.

#### §200.332

With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

#### **Uniform Guidance definitions**

##### §200.45 Fixed amount awards

Fixed amount awards means a type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award. This type of Federal award reduces some of the administrative burden and recordkeeping requirements for both the non-Federal entity and Federal awarding agency or pass-through entity. Accountability is based primarily on performance and results. See §§ 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b) and 200.332 Fixed amount subawards.

##### §200.88 Simplified acquisition threshold

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation.

#### **Previous Circular**

A-133 B.210(a)-(d)

An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

- (b) Federal award. Characteristics indicative of a Federal award received by a subrecipient are when the organization:
  - (1) Determines who is eligible to receive what Federal financial assistance;
  - (2) Has its performance measured against whether the objectives of the Federal program are met;
  - (3) Has responsibility for programmatic decision making;
  - (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
  - (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.
- (c) Payment for goods and services. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:
  - (1) Provides the goods and services within normal business operations;
  - (2) Provides similar goods or services to many different purchasers;
  - (3) Operates in a competitive environment;
  - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
  - (5) Is not subject to compliance requirements of the Federal program.
- (d) Use of judgment in making determination. There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

## **Uniform Guidance**

### **§200.330**

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding

agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

- (a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:
  - (1) Determines who is eligible to receive what Federal assistance;
  - (2) Has its performance measured in relation to whether objectives of a Federal program were met;
  - (3) Has responsibility for programmatic decision making;
  - (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
  - (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
- (b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
  - (1) Provides the goods and services within normal business operations;
  - (2) Provides similar goods or services to many different purchasers;
  - (3) Normally operates in a competitive environment;
  - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
  - (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
- (c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

- (a) The Federal agency or pass-through entity must provide to the non-Federal entity a notice of termination.
- (b) If the Federal award is terminated for the non-Federal entity's failure to comply with the Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state that the termination decision may be considered in evaluating future applications received from the non-Federal entity.
- (c) Upon termination of a Federal award, the Federal awarding agency must provide the information required under FFATA to the Federal Web site established to fulfill the requirements of FFATA, and update or notify any other relevant government-wide systems or entities of any indications of poor performance as required by 41 U.S.C. 417b and 31 U.S.C. 3321 and implementing guidance at 2 CFR part 77. See also the requirements for Suspension and Debarment at 2 CFR 180.

### **Related Uniform Guidance definitions and policy**

#### **§200.22 Contract**

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

#### **§200.23 Contractor**

Contractor means an entity that receives a contract as defined in §200.22 Contract.

#### **§200.93 Subrecipient**

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

#### **§200.338 Remedies for noncompliance**

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

#### **§200.339(a) Termination**

The Federal award may be terminated in whole or in part as follows: (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award; (2) By the Federal awarding agency or pass-through entity for cause; (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

#### §200.501(f) Audit Requirements

An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations should be considered in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

#### **Previous circular citations**

##### A-133, D.400(d)

(d) Pass-through entity responsibilities. A pass-through entity shall perform the following for the Federal awards it makes:

- (1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.
- (2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.
- (3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.
- (4) Ensure that subrecipients expending \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.
- (5) Issue a management decision on audit findings within six months after

receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

- (6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.
- (7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

A-133, D.405(c)

As provided in § D.400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

**Uniform Guidance**

§200.331(d) Requirements for pass-through entities

All pass-through entities must ... [m]onitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and programmatic reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

§200.521(c) Pass-through entity

As provided in §200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

**Previous Circular**

A-133, D.405(d)

The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible."

**Uniform Guidance**

§200.521(d)



The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC [Federal Audit Clearinghouse]. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.”

**Related UG policy**

§200.5 Audit finding

Audit finding means deficiencies which the auditor is required by §200.516 Audit findings, paragraph (a) to report in the schedule of findings and questioned costs.

§200.26 Corrective action

Corrective action means action taken by the auditee that: (a) Corrects identified deficiencies; (b) Produces recommended improvements; or (c) Demonstrates that audit findings are either invalid or do not warrant auditee action.

§200.521(a) Management decision

The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action.

**Facilities and Administrative Costs**

§200.56 Indirect (facilities & administrative (F&A) costs

Indirect (F&A) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

§200.68 Modified Total Direct Cost (MTDC)

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first \$25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts 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 and subcontract in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

§200.75 Participant support costs

Participant support costs means direct costs for items such as 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.

§200.99 Voluntary committed cost sharing

Voluntary committed cost sharing means cost sharing specifically pledged on a voluntary basis in the proposal's budget or the Federal award on the part of the non-Federal entity and that becomes a binding requirement of Federal award.

§200.306(a) Cost sharing or matching

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. Criteria for considering voluntary committed cost sharing and any other program policy factors that may be used to determine who may receive a Federal award must be explicitly described in the notice of funding opportunity. Furthermore, only mandatory cost sharing or cost sharing specifically committed in the project budget must be included in the organized research base for computing the indirect (F&A) cost rate or reflected in any allocation of indirect costs. See also §§200.414 Indirect (F&A) costs, 200.203 Notices of funding opportunities, and Appendix I to Part 200—Full Text of Notice of Funding Opportunity.

§200.331(a)(4) Requirements for pass-through entities

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

An approved Federally recognized indirect cost rate negotiated between the subrecipient and the Federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (b) of this part.

§200.414(c)(1) Indirect (F&A) costs

Federal Agency Acceptance of Negotiated Indirect Cost Rates. (See also §200.306 Cost sharing or matching.)

The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification as described in paragraph (c)(3) of this section.

**Previous Circular Citations**

A-87/A-122; A-21 subpart G; A-110 C.23

## Prior Approvals

### Uniform Guidance Citation

#### §200.407

Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, the non-Federal entity may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in the following sections of this Part:

- (a) §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b)(5);
- (b) §200.306 Cost sharing or matching;
- (c) §200.307 Program income;
- (d) §200.308 Revision of budget and program plans;
- (e) §200.332 Fixed amount subawards;
- (f) §200.413 Direct costs, paragraph (c);
- (g) §200.430 Compensation—personal services, paragraph (h);
- (h) §200.431 Compensation—fringe benefits;
- (i) §200.438 Entertainment costs;
- (j) §200.439 Equipment and other capital expenditures;
- (k) §200.440 Exchange rates;
- (l) §200.441 Fines, penalties, damages and other settlements;
- (m) §200.442 Fund raising and investment management costs;
- (n) §200.445 Goods or services for personal use;
- (o) §200.447 Insurance and indemnification;
- (p) §200.454 Memberships, subscriptions, and professional activity costs, paragraph (c);
- (q) §200.455 Organization costs;
- (r) §200.456 Participant support costs;
- (s) §200.458 Pre-award costs;
- (t) §200.462 Rearrangement and reconversion costs;
- (u) §200.467 Selling and marketing costs; and
- (v) §200.474 Travel costs

## Pre-award: Mandatory Disclosures

### Uniform Guidance

The non-Federal entity or applicant for a Federal award 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. Failure to make required disclosures can result in any of the remedies described in §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321)."

### **Related UG policy**

- Consequences/Remedies:
  - See §200.338: Remedies for Non-compliance
  - See §200.205: Federal Awarding Agency Review of Risk Proposed by Applicants
    - The Federal awarding agency must have a framework in place for evaluating risks posed by applicants before receiving award. The following items may be considered in evaluating risks:
      - Financial stability
      - Quality of management systems
      - History of performance
      - Audit reports and findings
      - Ability to implement regulatory requirements

OR

- As prescribed in §200.207: Special Conditions, when an applicant has a history of failure to comply with T&C's or failure to meet performance goals, Federal awarding agency may impose additional specific award conditions (200.207(a)(1-6), (b)(1-5), and (c).

Must comply with OMB Guidance regarding debarment and suspension.

- Failure to meet performances goals as prescribed in See §200.210.

## **Internal Control**

### **Uniform Guidance**

#### §200.303 (a)

Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in 'Standards for Internal Control in the Federal Government' issued by the Comptroller General of the United States and the 'Internal Control Integrated Framework', issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

#### §200.514 (c) Internal control. (1)

The compliance supplement provides guidance on internal controls over Federal programs based upon the guidance in Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States and the Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

#### §200.303 The non-Federal entity must

- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-

Federal entity considers sensitive consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

### **Related UG policy**

The Uniform Guidance defines Internal Controls in sections 200.61 and 200.62. Sections 200.79 and 200.82 provide the definitions for PII and Protected PII. Section 200. 512 (a)(2) requires that the auditee make copies of reports available for public inspection; however, auditees and auditors must ensure that their respective parts of the reporting package do not contain Protected PII.

## **Financial Management and Reporting**

### **Uniform Guidance**

#### §200.305(b)(9)

Interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense.

#### §200.307(e) Use of program income

If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, paragraph (e)(1) of this section must apply. For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply. ...

#### §200.307(e) (2) Addition

With prior approval of the Federal awarding agency, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

#### §200.314: (a) Title to supplies will vest in the non-Federal entity upon acquisition

If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program 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. The amount of compensation must be computed in the same manner as for equipment. See §200.313 Equipment, paragraph (e) (2) for the calculation methodology.

(b) As long as the Federal government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other

organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

§200.328: (a) Monitoring by the non-Federal entity

The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through *entities*. ...

(b) (2) The non-Federal entity must submit performance reports using OMB approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(d) (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

§200.343

The Federal agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. This section specifies the actions the non-Federal entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

(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 as required by or the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.

(b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.

(c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for allowable reimbursable costs under the Federal award being closed out.

(d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that is not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A-129 and see §200.345 Collection of amounts due for requirements regarding unreturned amounts that become delinquent debts.

(e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with §§200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property.

(g) The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.

#### §200.344

(a) The closeout of a Federal award does not affect any of the following.

(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

(3) Audit requirements in Subpart F—Audit Requirements of this part.

(4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §§200.310 Insurance Coverage through 200.316 Property trust relationship.

(5) Records retention as required in Subpart D – Post Federal Award Requirements of this Part, 200.333 Retention requirements for records through 200.337 Restrictions on public access to records.

(b) After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

#### §200.415

(a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, 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, which reads as follows: "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. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

## **Previous Circular**

### A-110 subpart C.22 – Payment

(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.

### A-110 subpart C.51 – Monitoring and reporting program performance

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in Section \_\_\_\_\_.26.

(f) Recipients shall immediately notify the Federal awarding agency of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

### A-110 subpart D.71 – Closeout procedures

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award.

### A-110 subpart C.72 – Subsequent adjustments and continuing responsibilities

(a) The closeout of an award does not affect any of the following.

- (1) The right of the Federal awarding agency to disallow costs and recover funds on the basis of a later audit or other review.
  - (2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.
  - (3) Audit requirements in Section \_\_\_\_\_.26.
  - (4) Property management requirements in Sections \_\_\_\_\_.31 through \_\_\_\_\_.37.
  - (5) Records retention as required in Section \_\_\_\_\_.53.
- (c) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the Federal awarding agency and the recipient, provided the responsibilities of the recipient referred to in paragraph \_\_\_\_\_.73(a), including those for property



management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate

A-21 (K) – Certification of charges

1. To assure that expenditures for sponsored agreements are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the application and award documents.

**Related UG policy**

- §200.76 Performance goal
- §200.77 Period of Performance
- §200.80 Program Income
- §200.94 Supplies
- §200.206 Standard application requirements
- §200.301 Performance measurement
- §200.329 Termination
- §200.333 Retention requirements for records
- §200.336 Access to records
- §200.345 Collection of amounts due
- §200.407 Prior written approval (prior approval)
- §200.453 Materials and supplies costs, including costs of computing devices

## FREQUENTLY ASKED QUESTIONS

### Allowable/Unallowable Direct Costs

- 1. How does the Uniform Guidance requirement that the federal government be compensated for its share of unused supplies upon termination or completion of the project apply to computing devices?**

The Uniform Guidance provides that the federal government must be compensated for its share of “unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program” if the supplies are not needed for any other federal award. The key word is “unused.” Any computing device purchased with award funds for less than \$5,000 should have been used during the course of the award, so the provision would not apply.

This language rarely pertains to recipients in higher education; it more commonly applies to commercial entities engaged in manufacturing, where they might have a supply of unused raw materials or other supplies or consumables on hand at the end of the award. Higher education awardees rarely, if ever, have unused supplies or materials on hand when an award closes and normally answer in the negative regarding on-hand supplies when submitting final equipment reports. (Ref: §200.314 Supplies)

- 2. Regarding the direct charging of administrative and clerical staff salaries, one of the criteria is that the administrative or clerical services are integral to the project. What does “integral” mean?**

The UCOP Costing Policy and Analysis group will provide guidance on this definition in the near future. (Ref: §200.413 Direct costs)

- 3. Are H-1B and J-1 visa costs allowable as direct charges to federal awards?**

Because H-1B and J-1 visas are non-immigrant visas given for a defined period of time, they are allowable as direct charges if all of the following criteria are met: (1) the visa holder will be working for a specified period of time and for a purpose that can be clearly identified as directly connected to the work being performed on the federal award to which the visa costs are charged; (2) obtaining the visa is critical and necessary for the conduct of the project; (3) the visa costs are allowable and meet the definition of a direct cost under any additional applicable cost principles, e.g., specific principles imposed by the funding agency; and (4) the visa costs are consistent with the university’s cost accounting practices and policies. (Ref: §200.463 Recruiting costs)

- 4. Can the purchase of a computing device be direct-charged to an award if it is not used solely for the project?**

Yes, if the computing device is a non-capital expenditure (i.e., the purchase price is less than \$5,000). If the purchase price is \$5,000 or more, the purchase is allowable if prior written approval has been obtained

from the federal awarding agency. (Ref: §200.94 Supplies, §200.313 Equipment, §200.407 Prior Written Approval (Prior Approval))

**5. To what extent must a computing device be used on a federal project to be considered allocable?**

Since the Uniform Guidance states that a computing device need not be solely dedicated to the performance of the federal project to which it is charged, computing devices may be charged 100 percent to one award or may be allocated to multiple awards. In any case, the decision must be adequately documented. Section 200.405 of the Uniform Guidance provides that “[a] cost is allocable ... if the goods or services involved are chargeable or assignable ... in accordance with relative benefits received.” (Ref: §200.94 Supplies, §200.405 Allocable costs)

## Procurement

**6. How will we document our compliance with the Uniform Guidance’s rules for the proper procurement procedure to follow? Is there a form we can use?**

The UCSB Procurement Services office has created a buyer checklist that guides buyers through the determination as to which procurement procedure is appropriate for a given purchase. (See [www.bfs.ucsb.edu/files/forms/UCSBTransactionChecklist.pdf](http://www.bfs.ucsb.edu/files/forms/UCSBTransactionChecklist.pdf).) Please note that this document has been provided for guidance purposes only, as the form is intended for use by UCSB’s internal procurement office buyers. (Ref: §200.318 General Procurement Standards)

**7. What is the Simplified Acquisition Threshold?**

The Simplified Acquisition Threshold is the dollar amount below which a non-federal entity may purchase property or services using small purchase methods. It is currently set at \$150,000 and is adjusted periodically for inflation. (Ref: §200.88 Simplified acquisition threshold)

**8. What is a micro-purchase?**

The Uniform Guidance defines a micro-purchase as a purchase of supplies or services, “the aggregate amount of which does not exceed the micro-purchase threshold” of \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). Micro-purchases may be awarded without soliciting competitive bids if the price is reasonable. (Ref: §200.67 Micro-purchase)

**9. What is a small purchase?**

A small purchase is the acquisition of services, supplies or other property costing more than \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act) but less than the Simplified Acquisition Threshold, which is currently set at \$150,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. (Ref: §200.320 Methods of procurement to be followed)

**10. The Uniform Guidance allows procurement by small purchase procedures only when price or rate quotations have been obtained from an adequate number of qualified sources. How many is “adequate”?**

The meaning of “adequate” in this context is subject to the buyer’s discretion for the particular item to be purchased, but there must always be at least two sources. Individual campus procurement offices may require a higher number for their campuses. (Ref: §200.320 Methods of procurement to be followed)

**11. When may sole-source procurement methods be used?**

Sole-source procurement, or procurement by noncompetitive proposals, may be used only when one or more of the following circumstances apply: (1) the item is available only from a single source; (2) there is a public exigency or emergency that does not permit the delay that would result from competitive solicitation; (3) the federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or (4) after solicitation of a number of sources, competition is determined inadequate to generate competitive bids. (Ref: §200.320 Methods of procurement to be followed)

**12. When must competitive proposals be used?**

Competitive proposals are generally used when conditions are not appropriate for use of micro-purchase, small purchase, sealed bids or sole-source purchase procedures. (Ref: §200.320 Methods of procurement to be followed)

**13. When must purchases be put out to bid?**

For purchases made with federal funds, the Uniform Guidance requires that purchases of more than \$150,000 be put out to bid. For purchases made with state funds, California law requires that purchases of more than \$100,000 be put out to bid. Most UC campuses, therefore, require that all purchases — whether made with federal or state funds — of more than \$100,000 be put out to bid. The appropriate campus procurement personnel should be consulted. However, the procurement office buyer may always use his or her discretion to put a purchase of a lower amount out to bid if there is a valid reason for doing so. (Ref: §200.320 Methods of procurement to be followed)

**14. Who handles my bid?**

All bids must go through the campus procurement office.

**15. How long will the bid process take?**

The bid process can take anywhere from a couple of weeks to several months. The time required depends on several factors, including how long the procurement office and the PI need to document the bid specifications to send to suppliers and how long the suppliers take to submit their bids.

**16. Can I bid out a specific brand item?**

Ordinarily, it is not permissible to specify a brand. Federal and state laws require that procurement bids outline product specifications with sufficient detail to allow for open and fair competition. However, if there is a valid reason for buying a particular brand item, the procurement office will put out a bid only to distributors of that brand item. An example of a valid reason for buying a particular brand would be if the continuity of a research program depends on obtaining that particular brand item. Another example would be if a particular brand item is unique or proprietary and it would be cost prohibitive to use a different brand, or if a particular brand item is necessary to match or be compatible with the PI's existing equipment or technology.

**17. Regarding purchases between the micro-purchase threshold and the simplified acquisition threshold, must we document the purchase history, including price reasonableness?**

The Uniform Guidance requires that micro-purchase prices be reasonable, but it does not require documentation of price or rate quotations for micro-purchases. However, the Uniform Guidance does require price or rate quotations from more than one source before purchasing an item using small purchase procedures. Policies on documenting price reasonableness may vary from campus to campus, so the campus procurement office should be consulted. (Ref: §200.320 Methods of procurement to be followed)

**Equipment****18. The Uniform Guidance requires campuses to maintain property records that include the use and condition of the property. What does “use” mean in this context? Does it encompass the percentage of utilization dedicated to a particular program and whether the property could be shared across more than one program? Does it include description of what the equipment is used for?**

According to the Council on Government Relations (COGR), the Uniform Guidance does not change the requirements for property records that were imposed by A-110. Therefore, Uniform Guidance's requirement that property records include the use and location of the property refers to an indicator in the property records that the specific equipment item is active and linked with the appropriate federal award, identical to the requirement in Circular A-110. Accordingly, there is no need to include a description of the use of the equipment beyond whether it is actively being used and for what project. Moreover, each campus's Equipment Management office should also maintain a *use percentage* data field in the management and control system for inventorial equipment. This field should capture and record the percentage of time that a piece of equipment is in use for a particular program. (Ref: §200.313 Equipment)

**19. Can the cost to dispose of equipment be charged to the award?**

Sometimes. In §200.439, the Uniform Guidance states “[i]f the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.” Otherwise, the federal awarding agency may or may not permit the non-federal entity to deduct disposal costs, depending on the specific award terms. It is therefore recommended that

the allowability of disposal costs be clarified at the time the award is negotiated. (Ref: §200.439 Equipment and other capital expenditures)

**20. What is exempt property?**

Exempt property is property acquired under a federal award, to which the federal government retains title. To be exempt, property must be explicitly declared exempt in the award. (Ref: §200.312 federally owned and exempt property)

**21. Regarding property records, what does “percentage of Federal participation in the project costs for the Federal award under which the property was acquired” mean?**

The percentage of federal participation is the percentage of the total cost of the equipment that was paid with federal funds. (Ref: §200.313 Equipment)

**22. What is conditional title?**

When equipment is held under conditional title, ownership of the equipment vests in the non-federal entity at acquisition, but subject to the conditions enumerated in §200.313(a). (Ref: §200.313 Equipment)

**23. Is it permissible to sell a piece of federally funded equipment to which the university holds conditional title, and, if so, who gets the proceeds?**

It is permissible to sell or trade in a piece of federally funded equipment as long as doing so would not adversely impact the non-federal entity's conditional title of the equipment. Generally, if the per-unit fair market value of the equipment is \$5,000 or less, the non-federal entity may keep all of the proceeds. Generally, if the per-unit fair market value is more than \$5,000, the federal entity must be reimbursed for its fair share of the sale price. See §200.313(e) for more specific rules pertaining to disposition of equipment purchased in whole or in part with federal award funds. (Ref: §200.313 Equipment)

**24. How do I know how much to reimburse the federal entity for the sale of equipment originally purchased in whole or in part with federal award funds?**

To calculate the federal agency's percentage of sale proceeds, apply the percentage of federal participation (see question 21) to the original purchase price of the equipment. (Ref: §200.313 Equipment)

**25. How do I dispose of equipment that has federal title?**

Upon completion of the federal award or when the equipment is no longer needed, the non-federal entity must report the equipment to the federal awarding agency for further federal agency utilization. If the federal awarding agency has no further need for the equipment, the federal awarding agency must issue appropriate instructions to the non-federal entity. If no instructions are provided within 120 days, disposition instructions for equipment held under conditional title should be followed (see question 23). (Ref: §200.313)

Equipment)

**26. Is it okay for a non-federal entity to arrange a no-cost transfer of a piece of equipment with conditional title to another non-federal entity?**

Different rules apply depending on the fair market value (FMV) of the individual pieces of equipment (not the lot value, if more than one item is involved).

If the FMV is under \$5,000, the Uniform Guidance states the non-federal entity can dispose of the item with no obligation to the federal agency. In this case, a no-cost transfer is allowed *if local campus policy permits it*. Many campuses do not permit it and will expect to be reimbursed for any transfer of equipment to a non-UC (or even, in some cases, another UC) campus.

If the FMV is \$5,000 or greater, a transfer of equipment requires agency approval, even if the award is terminated. If a non-federal entity no longer has a need for the equipment, it must consult with the agency and dispose as directed. The agency might approve a no-cost transfer if the equipment can be used under a federal award at the new institution. But, *local policy would likely prohibit such a transfer* and the campus would expect reimbursement. The agency may also expect its share of the FMV. (Ref: §200.313 Equipment)

**27. Does the federal agency still need to be reimbursed if the fair market value (FMV) of the equipment is \$5,000 or more but the transfer price is \$0?**

Fair market value is not the same as the sale price. FMV is used in disposals policy to prevent sales of equipment at less than the fair value in order to avoid paying the federal government its fair share. Sellers must obtain the best return for the university (and/or agency) when disposing of surplus property. (Ref: §200.313 Equipment)

## Subawards

**28. If a subrecipient does not have a negotiated indirect cost rate, does the pass-through entity have to negotiate one?**

No. If the subrecipient has negotiated a rate with its federal cognizant agency, that rate must be used. If the subrecipient does not have a negotiated rate, a 10 percent de minimis rate may be used, or the pass-through entity may, but is not required to, negotiate a rate with a proposed subrecipient who asks to do so. Under no circumstances is it permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate. (Ref: §200.331 Requirements for pass-through entities)

**29. Section 200.332 of the Uniform Guidance limits the amount of fixed-amount subawards to the Simplified Acquisition Threshold, which is currently \$150,000. Is this a limit of \$150,000 in total costs or in direct costs?**

The \$150,000 limit is applied to the total direct and indirect costs of the subaward. (Ref: §200.332 Fixed amount subawards)

## Facilities and Administrative Costs

**30. The Uniform Guidance excludes participant support costs from the Modified Total Direct Cost (MTDC). Therefore, these costs must be exempt from overhead and excluded from the MTDC in all indirect cost rate calculations. Will UC amend current systemwide accounting practices with a new set of object codes or other method to ensure these costs can be identified and charged appropriately?**

The Systemwide Controllers group will be consulted and guidance will be provided in the near future. (Ref: §200.68 Modified Total Direct Cost (MTDC), §200.75 Participant support costs, §200.456 Participant support costs)

## Prior Approvals

**31. What qualifies as “prior written approval”? Specifically, if an award is funded and a type of expense requiring prior approval was listed in the proposal budget, has that item received prior approval by virtue of the award being funded?**

A similar question was answered in the Council on Financial Assistance Reform (COFAR) FAQs dated August 29, 2014 (<https://cfo.gov/wp-content/uploads/2014/08/2014-08-29-Frequently-Asked-Questions.pdf>.) Here is the response:

*“It depends. Non-Federal entities should refer to the terms and conditions of their Federal award or address their questions to the Federal awarding agency awarding official (or pass-through entity if appropriate) to clarify when pre-approval has been granted.”*

We are awaiting agency-specific guidelines as well as the Federal Demonstration Partnership’s revised Terms and Conditions, which we anticipate will clarify whether funding an award for which a particular cost was included in the proposal qualifies as prior written approval. (Ref: §200.308 Revision of budget and program plans, §200.407 Prior Written Approval (Prior Approval))

**32. The modular budgets required for NIH Modular Research Grant Applications leave no opportunity to follow the Uniform Guidance requirement that certain costs have prior written approval or be explicitly included in the budget. How will agency approval for these costs be obtained?**

We are waiting for NIH to provide an update to its Grants Policy Statement and modular budget instructions. Until that time, any such costs will likely require NIH approval after an award has been made. (Ref: 200.407 Prior Written Approval (Prior Approval))



## Pre-award Mandatory Disclosures

**33. The Uniform Guidance requires us to “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.” Is this in addition to and outside of the System for Award Management (SAM) declarations that campuses are already making?**

The UG requirement is award-specific, so these declarations could be different from those we are making in SAM. UCOP Research Policy Analysis and Coordination (RPAC) has discussed with the Office of General Counsel (OGC) ways to inform the C&G community whenever there is a criminal conviction involving fraud, bribery or gratuity violations against any UC personnel in their official capacity. This would enable C&G officers to evaluate whether any of those convictions “potentially affect[s] the Federal award” and would need to be disclosed pursuant to the UG. RPAC will inform campuses when and if a new policy is developed.

In addition, campus C&G officers and departmental administrators should inform PIs of their ongoing duty to report any criminal convictions involving themselves, students, employees or other personnel (including subrecipients) who are working on the federally funded project if those convictions involve fraud, bribery or gratuity violations. As an example, this reporting obligation could be met by including a certification on an internal proposal submission form and in interim and final reporting submissions that PIs must endorse before a proposal or report is submitted. (Ref: §200.113 Mandatory disclosures)

**34. Are campuswide communications sufficient to put PIs on notice of mandatory disclosure requirements?**

Yes. (Ref: §200.113 Mandatory disclosures)

**35. Should mandatory disclosures be included on internal proposal routing forms?**

This is a campus-by-campus decision. (Ref: §200.113 Mandatory disclosures)

## Internal Control

**36. How do our Internal Controls need to be documented?**

The Council on Financial Assistance Reform (COFAR) has provided additional clarification on this issue. While non-federal entities must have effective internal controls, there is no expectation or requirement that internal controls be documented and evaluated prescriptively to those guidelines or that the entity or auditors must reconcile technical differences between them. Rather, the guidelines are provided for best practices. Non-federal entities and their auditors will need to exercise judgment in determining the most appropriate and cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with federal program requirements. (Ref: §200.303 Internal controls)

**37. What is the effective date for the audit requirements in Subpart F?**

Subpart F, Audit requirements, will apply in fiscal years beginning on or after December 26, 2014. The revised audit requirements are not applicable to fiscal years beginning prior to that date. Thus, for the UC system, the Audit requirements will go into effect at the beginning of fiscal year 2016, or on July 1, 2015. (Ref: §200.110 Effective/applicability date)

## UCOP ACTIONS

### Allowable/Unallowable Direct Costs

1. Revise the C&G Manual to include participant support costs as a budgetary item that is not subject to F&A.
2. Revise section 7-210 (Materials & Supplies) of the C&G Manual to include language related to computing devices.
3. Revise section 7-310 (Costs Normally Treated as Indirect) of the C&G Manual to reflect the new administrative and clerical salary rules (i.e., remove the major project language, etc.).
4. Define “essential” with regard to computing devices.
5. Define “integral” with regard to administrative and clerical salaries.
6. Update C&G Manual references to the old circulars to reference 2 CFR 200.
7. Review C&G Manual section 7-330 to remove restrictive language on effort reporting.
8. Work with campus to set up focus group to examine alternative methods for documentation of personnel expenses.

### Procurement (includes Conflict of Interest)

#### Procurement Standards

1. Determine whether the system as a whole or each campus will be responsible for choosing to utilize the delay in implementation.
2. Issue written procedures; update BUS-43, 34, and 77 to match OMB guidance. Also, OP should add language of state vs. federal thresholds, and which supersedes.
3. Define “adequate number” of sources. Suggest using the same definition as referenced in §200.320(c)(ii), which is two or more. (Note: UCLA suggests three or more.)
4. Confirm whether or not the state competition law, which is currently set at \$100,000, prevails.
5. Include the five methods of procurement in BUS-43 for federal purchase guidance (micropurchase, small purchase, sealed bids, competitive proposals and sole source – noncompetitive).
6. Work with campus to create a form to help buyers document which method is being used for the transaction. (Bear Claw document is available from UCSB.)
7. Determine which law/policy takes priority, PCC or OMB regarding dollar limits.
8. Clarify the difference between Price Reasonableness and Cost Analysis, and include them in BUS-43. While purchases under \$150,000 do not require cost analysis, they do require purchase documentation history and price reasonableness (refer to §§ 200.318(i), and .320(a)).
9. Maintain its own written standards of conduct, including the disciplinary actions to be applied for violations by officers, employees or agents of the university.
10. Optimize tangible and intangible savings where possible. May need to come up with a process to utilize more state contracts and find surplus property.
11. Define nominal gifts.

### **Pre-procurement Review**

1. Develop a standard form and checklist for campus use for the self-certification of their procurement system(s). The form should be signed by the UCOP chief procurement officer and vetted through a federal auditing agency for compliance purposes.

## **Equipment**

### **Equipment and Capital Expenditures**

1. Request clarification from OMB of the seeming inconsistency of the treatment of disposal costs.

### **Equipment Title and Records**

1. Working with COFAR, or with other agencies, get a strict determination of the definition of exempt property – government-furnished only, or also contractor-acquired? If the former, no policy/procedure changes.
2. BUS-29 should be revised to explicitly include Use, FAIN and Percentage of Federal Participation in the minimum list of mandatory data fields under section III.B.7.

### **Management and Disposition**

1. While the provisions related to the sale of conditional title equipment retaining a fair market value of \$5,000 greater and no longer needed by the non-federal entity have not changed between those previously established in A-110 and the Uniform Guidance — the federal-awarding agency should be compensated for any such sale — BUS-29 does not address the university's responsibilities in this regard and must be amended. It acknowledges only two categories: "unconditional UC title" and federal title. The requirement that the federal-awarding agency be compensated is mentioned nowhere. BUS-38, related to the disposition of property, will also need to be rewritten.
2. Obtain clarification as to how the reimbursement is to be made: to the specific agency or to a more general federal-clearing account? (For example, in the case of rebates obtained by the university from strategic sourcing contracts, the federal share of the rebate is remitted to a single account, rather than attempting to break it down by agency.) This clarification is needed because UC (and probably most other institutions of higher education) *have not* been following this provision of A-110. Federal auditors have not issued any findings in the past, but as noted during COFAR discussions, just because practices have passed audit in the past does not mean this will continue to be the case as the auditors look at the governing policy with new eyes.
3. Obtain clarification as to whether the disposition provisions of 200.313(e)(1)-(4) apply only under federal awards whose terms and conditions require that the non-federal entity obtain disposition instructions from the federal awarding agency, or whether they apply to all conditional title equipment, whether or not the federal award contains disposition terms and conditions.

## **Subawards**

### **Fixed-price Awards**

1. Confirm that Federal Demonstration Partnership is revising their subaward templates.

2. Review and revise the C&G Manual 7-220, as needed.
3. Review and Revise BUS-43, as needed.

#### Required Information

1. Review, and revise if necessary, RPAC memo 85-31, RPAC memo 06-05, BUS-43 to ensure they are in compliance with §200.330.
2. Check agency implementation plans as they are issued and review UC guidance to ensure it does not conflict with sponsor implementation.
3. Consult with campus personnel on a process to determine and certify whether a recipient of federal funds is a contractor or a subrecipient.

#### Subrecipient Monitoring

1. Update and/or replace RPAC memo 06-05 and C&G Manual 16-431.

#### Facilities and Administration Costs

1. Revise C&G Manual chapter 8.
2. Provide online guidance on “honoring F&A” from federal, subaward and MCA levels.
  - a. Guidance on how to deal with other universities (elevate to UCOP, maybe provide a template letter).
  - b. Articulate that UC will honor the de minimis rate if no rate agreement is in place.
3. Does the change in participant support to cover all federal agencies affect how financial reports are run?
4. Participant support cost should be accounted for in the F&A rate negotiation (it should be excluded from the base).
5. If administrative salaries are direct charged, are they coded so that those charges will not be included in the IDC rate proposal?
6. Ensure procedures within F&A exception process do not permit voluntary committed cost-sharing on federal funds that fall under Uniform Guidance, consistent with UC policy.
  - a. Under the implementation of the rearticulated IDC policy, it is anticipated that any F&A exception involving federal funds must be routed to UCOP for review and approval. REMS and any guidance should clearly articulate that campuses should not seek a reduction of IDC on a federal grant unless the federal agency has permitted this cost-sharing.
7. Until participant support costs are added as exclusion in UC’s F&A rate agreements, the pending Verified Sponsor Policy list should include an entry for participant support costs under federal grants where such costs were not excluded from the base.

#### Prior Approvals

1. Update the C&G Manual and guidance memos as necessary to conform with the changes in the Uniform Guidance.
2. Suggest that the sponsored project offices on the campuses be the primary group to disseminate any new guidance and campus training as appropriate.
3. Define “engagement” (§200.308) and explore the need for monitoring a PI’s engagement with the project.

4. Guidance will be needed to define what costs are appropriately in the participant support category and to clarify that those charges are not included in the modified total direct cost base.
5. The overall travel section needs to be compared with UC travel policies/procedures.
6. University of California does not currently have policy that addresses temporary dependent care costs; therefore, campuses are not able to include these charges in awards. Guidance to that effect will need to be issued to campuses. Further, the appropriate offices in the Office of the President will need to review the issue to determine if a temporary dependent care policy needs to be developed.

### **Pre-award: Mandatory Disclosures**

1. Review federal agency implementation plans.
2. Discuss with General Counsel to help define “violation,” “fraud.” etc.

### **Internal Control**

1. Determine and form the appropriate group to perform the review.
2. Identify COSO and GOA internal controls.
3. Update UC’s Understanding Internal Controls for COSOS’s May 2013 update, if necessary.
4. Develop initial assessment of systemwide internal controls.
5. Identify systemwide best business practices supporting internal controls.
6. Develop internal control assessment tool for use by campuses and other users to determine whether there is reasonable assurance that internal controls are in place. Are they effective? Do they need to be strengthened?
7. Determine what specifically is considered Protected PPI and other sensitive information.
8. Identify what “reasonable safeguard measures” are.
9. Identify any systemwide policies, guidance and controls in place.
10. Update or create policy at systemwide level.
11. Complete internal control assessment tool to determine whether there is reasonable assurance that internal controls are in place prior to FY 16. This would include a comprehensive assessment of policies, procedures, training and systems.
12. Are internal controls effective? Do they need to be strengthened?
13. Take action to strengthen inadequate controls.
14. Inform key campus personnel of any substantive changes made as a result from the assessment.
15. Identify/verify whether each campus has a local PHI/Protected PII policy.
16. Ensure policy and procedures are in place.
17. Update training materials as necessary.

### **Financial Management and Reporting**

1. Determine if current policy update is necessary. AM C-557-21 currently states interest be returned to federal government at least quarterly, but it does not speak to retaining \$250 under A-110.
2. Establish and implement UC-wide program income policy.
3. Revise the C&G Manual 2-700.

4. Determine if current signature authority for extramural funds is sufficient to comply with the new UG requirement that official signing be authorized to “legally bind” the non-federal entity. If not, seek authorization for those individuals. The authorization must be in place by the effective date of the Uniform Guidance.
5. Seek advice from the Office of General Counsel to clarify the legal ramifications of signing such a statement. Additionally, procedures should be established for the defense of individuals by the university in cases where they are pursued legally by the federal agencies for certifying on behalf of the university.

## **CAMPUS ACTIONS**

### **Allowable/Unallowable Direct Costs**

1. Disclosure Statement (DS-2) updates:
  - a. 3.5.0 for MTDC exclusions
  - b. 2.1.0 for Criteria of direct charging administrative and clerical salaries
  - c. 2.4.0 for Description of direct charging administrative and clerical salaries
  - d. Update references to A-21 to Uniform Guidance (2CFR Part 200)
2. Identify local solution for accounting for participant support costs as an MTDC exclusion and exclude the costs from F&A rate proposals.
3. Update any campus guidance that limits the charging of computing devices to federal awards.
4. Review and ensure current system for documentation of personnel expenses is supported by necessary internal controls. Strengthen where necessary.

### **Procurement (includes Conflict of Interest)**

#### **Procurement Standards**

1. Update or create written procedures and work with OP to create a buyer checklist.
2. Work with OP to define “adequate number” of bids.
3. Ensure buyers are meeting the spirit of this provision by including quotes from alternate suppliers and documenting source selection by way of Small Purchase Threshold.
4. Add cost and price analysis to Purchasing Buyer Checklists, and incorporate into any applicable eProcurement workflow (same as UCOP, Appendix C).
5. Maintain their own written standards of conduct, including the disciplinary actions to be applied for violations by officers, employees or agents of the university (same as UCOP, Appendix C).
6. Optimize tangible and intangible savings where possible. May need to come up with a process to utilize more state contracts and find surplus property (same as UCOP, Appendix C).
7. Define nominal gifts (same as UCOP, Appendix C).

#### **Pre-procurement Review**

1. Recommend UC campuses either go through the Contractor Purchasing System Review (CPSR) audit to certify their procurement systems or follow OP guidance for self-certification.

## **Equipment**

### **Equipment and Capital Expenditures**

1. If clarification does not resolve ambiguity, Sponsored Projects Office should endeavor to negotiate explicit language in all awards making all disposal costs directly allocable to the award, to ensure that UC does not incur any shipping, etc. charges if the final



disposition of equipment involves shipment to another entity, or sale with the proceeds being returned to the federal agency. Also, if disposition were to occur after the award had closed, the non-federal entity must be able to recoup its disposal and/or shipping costs from the proceeds to be remitted to the federal awarding agency.

2. As is the case currently, if any award will involve the acquisition of capital general purpose equipment, it must be listed in the budget and preapproved by the agency, or via amendment. No unauthorized purchases may be made.

### **Equipment Title and Records**

1. The majority of systems already include a use field; therefore, no changes should be needed to record this data.
2. Per COFAR, as long as an equipment record can be easily linked to a record listing the FAIN and Percentage of Federal Participation values (such as a link via the fund number under which the equipment was purchased back to an Office of Research database containing these values), the equipment inventory system is in compliance.
3. Campuses may also chose to include the FAIN (if they do not already do so) and federal participation in the custody description of the equipment record.

### **Management and Disposition**

1. It is rare for sales of equipment where the fair market value exceeds \$5,000 to occur (equipment is usually disposed of, whether by sale or by scrapping, when it is fully depreciated, or when the fair market value is well below \$5,000). However, conditional title equipment may be sold as part of the transfer of a professor to another institution at times where the fair market value/sale price exceeds \$5,000 per unit. These cases need to be identified and the federal share remitted to the government, rather than the full sale amount being returned to the department and/or retained to recover costs within the Surplus Sales department.
2. Local policies may need to be rewritten (and department informed) to account for the above these changes.

## **Subawards**

### **Fixed-amount Awards**

1. Review and revise internal campus policies, instructions, checklists, templates, etc.
2. Provide information above to department liaisons, PIs and Accounting.
3. Campuses may have to revise their processes for determining whether a fixed-amount subaward can be issued in compliance with the requirements of §200.201.
4. Campuses should provide training materials as to when it would be advisable to enter a fixed-amount agreement at proposal stage versus later in the project period.
5. Campuses need to add language to subagreement templates, stating that any changes in PI, project leader, project partner or scope of effort must receive written prior approval.

### **Required Information**

1. Campuses should review their current methods for making subrecipient/contractor determinations to ensure compliance with the new requirements. Campuses should also

ensure that whoever makes these determinations (e.g., PIs, SPO officers or analysts) fully understands the distinctions between subrecipients and contractors, as defined in §200.330, and is documenting these determinations as they are made.

2. Revise the “termination for cause” procedures to include a statement reflecting §200.340’s requirements.
3. Monitor the Federal Demonstration Partnership subaward template updates.

### **Subrecipient Monitoring**

1. If their invoice templates do not contain sufficient language already, campuses may need to insert additional text in the signature line of the subaward invoice template stating that by signing the invoice and authorizing payment to the subrecipient, the PI certifies that the subrecipient’s performance goals have been achieved.
2. Campuses may want to add additional text in the subaward agreement stating that by submitting a signed invoice, the subrecipient certifies that all necessary performance goals have been reached and all activities funded by the subaward were carried out for authorized purposes.
3. Some training for faculty in properly monitoring and evaluating subrecipients’ programmatic performance might be necessary.
4. Subaward agreements will need to include an audit section with details on what needs to be provided to the pass-through entity if there are audit findings and the timeframe in which the subrecipient should begin corrective action.

### **Facilities and Administration Costs**

1. Educate! Ensure all levels of the research administration enterprise and PIs understand that it is generally inappropriate to reduce IDC on federally funded awards.

### **Prior Approvals**

1. Sections requiring training to campuses:
  - a. §200.308 Revision of budget and program plans
  - b. §200.332 Fixed amount subawards
  - c. §200.413 Direct costs, paragraph (c)
2. Educate campus research administrators on the use of the FDP Prior Approval Matrix when it becomes available.
3. If there is a cost-share component of the award and campuses wish to use unrecovered indirect costs to offset it, requests to do so will need to be included in the proposal submission.
4. If a fixed-amount subaward is desired, the best practice would be to include the request in the proposal budget and/or justification. If contemplated after the award is made, campuses will have to submit a prior approval request to the agency.
5. Campuses will have to review their DS-2 to account for the change in direct charging of administrative costs (§200.413).
6. The overall travel section needs to be compared with campus travel policies/procedures.

7. University of California does not currently have a policy that addresses temporary dependent care costs; therefore, campuses are not able to include these charges in awards. Guidance to that effect will need to be issued to department administrators.

#### **Pre-award: Mandatory Disclosures**

1. Training and education of investigators and campus
2. Review current process for compliance with UG.

#### **Internal Control**

1. Complete internal control assessment tool to determine whether there is reasonable assurance that internal controls are in place prior to FY 16. This would include a comprehensive assessment of policies, procedures, training and systems.
2. Are these internal controls effective? Do they need to be strengthened?
3. Take action to strengthen inadequate controls.
4. Inform key campus personnel of any substantive changes made as a result from the assessment.
5. Identify/verify whether each campus has a local PHI/Protected PII policy.
6. Ensure policy and procedures are in place.
7. Update training materials as necessary.

#### **Financial Management and Reporting**

1. Confirm procedures are in place to remit interest earned to DHHS.
2. Ensure the accounting system is properly configured to accurately account for, record and report program income.
3. Develop local policy and/or procedures to monitor the timely submission of progress reports in accordance with sponsor requirements.
4. Discuss changing subaward templates to encompass a 45-day final invoicing requirement.
5. Enhance established procedures to ensure final cash draws are performed within 90 days of award expirations.
6. Enhance established closeout procedures and related training to ensure compliance.
7. Implement appropriate delegation of authority to allow necessary individuals to certify financial reports and vouchers.

## WHAT THE PI NEEDS TO KNOW

The UC Uniform Guidance Workgroup would like to acknowledge and thank the Council on Governmental Relations, the University of Minnesota, and Columbia University for their resources on which much of this document is based.

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| <p><b>Allowable/Unallowable Direct Costs</b></p> <p>Uniform Guidance (UG) defines direct costs as those costs that can be identified specifically with a particular final cost objective or sponsored agreement. For costs to be directly charged to federal awards they must be allowable, reasonable and allocable to the award.</p> <p>Uniform Guidance has changed the treatment of certain costs as allowable direct charges to federal awards. The changes in the UG have provided more flexibility for charging a number of costs items than previous federal guidance, but certain items of cost are now more restrictive than current federal rules.</p> |  |
| <p><b>WHAT THE PI NEEDS TO KNOW</b></p>   |  |
| <p><b>Participant Support Costs</b></p>   | <p>After UG implementation, participant support costs (see § 200.75) are allowable with agency prior approval. This includes 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. Participant support costs are not routinely allowed on research projects but can be charged if the project includes an education or outreach component and the agency approves such costs.</p> <p>These costs should be explicitly listed in the proposal budget or approved by the funding agency after the award is made. These costs were previously subject to Indirect Cost but are now an excluded category and therefore should NO LONGER be included in the Base when calculating the indirect cost for proposal budgets.</p> |
| <p><b>Computing Devices</b></p>   | <p>Computing devices costing less than \$5,000/unit may be direct charged to the project or activity under the following circumstances:</p> <ul style="list-style-type: none"> <li>The devices are essential* and allocable to the performance of a federal award in that they are necessary to acquire, store, analyze, process, and publish data and other information electronically, “devices” include accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information.</li> <li>The project does not have reasonable access to other devices or equipment that can achieve the same purpose; devices may not be purchased for reasons of convenience or preference.</li> </ul>   |

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|   | <ul style="list-style-type: none"> <li>PIs are responsible for determining whether or not the device is “essential” and to what extent the cost of the device is allocable to the sponsored project. PIs and departments should maintain documentation that describes how the proposed computing device meets the above requirements.</li> </ul> <p>The cost of computing devices that meet the above requirements may be charged 100% to an award or may be allocated to several awards. The devices should be itemized in the proposal budget (or in the case of NIH modular grant applications, itemized in the detailed budget provided to your sponsored projects officer).</p>   |
| <b>Administrative &amp; Clerical Salaries</b> | <p>Administrative and clerical costs may now be charged as direct costs to federal proposal budgets under certain (new) circumstances. When added, these costs should be fully justified in the proposal budget justification.</p> <p>These costs were previously “normally treated as indirect cost” but could be included as direct costs under certain circumstances when a “major project or activity” was contemplated. Going forward, administrative and clerical salaries should still (generally) not be direct charged, but the rules governing “major project or activity” exceptions have been dropped and replaced by the following criteria, all of which must be met:</p> <ul style="list-style-type: none"> <li>Administrative or clerical services are integral to a project or activity;</li> <li>Individuals involved can be specifically identified with the project or activity;</li> <li>Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and</li> <li>The costs are not also recovered as indirect costs.</li> </ul> <p>If all of these requirements are met, PIs/departments should add a new statement to the budget justification section of proposals to facilitate the required agency approval.</p> |
| <b>Compensation — Personal Services</b>       | Formal Effort Reporting is replaced with this new terminology, placing greater emphasis on internal controls.  |
| <b>Programmatic Salary Costs</b>              | Costs related to protocol development and maintenance, managing substances/chemicals, managing and securing project-specific data and coordination of research subjects are allowable direct costs when they are “contributing and directly related to work under an agreement.” Thus, these programmatic costs may be direct charged using the same underlying requirements as other types of direct costs, and are not subject to the prior approval requirements necessary for administrative and clerical costs.   |

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| <b>Publication &amp; Printing</b> | Costs related to publication or sharing of research results can be charged to a federal award after the period of performance but before the end of the 90-day closeout period.   |
| <b>Visas</b>                      | The UG provides for consistent treatment of visa costs across federal funding agencies as a recruiting cost. This is consistent with current NIH regulations, which allow for visas to be an allowable direct charge as part of the recruiting costs of individuals paid on the federal award. The UG allows short-term, non-immigration visa costs for a specific period and purpose as direct costs on federal awards if these costs are critical and necessary and clearly identified as directly connected to the work performed on the federal award. Because this is being classified as a recruiting cost, only the initial visa cost is allowable. J1 and H1B visas are for a specific period and purpose; therefore, these visa types are generally allowable if the specific conditions are met.  |
| <b>Procurement</b>                | <p>Procurement standards are covered in §§ 200.317 through 200.326 in the Uniform Guidance and are generally based on the requirements in OMB Circular A-102. The Council on Financial Assistance Reform recommended OMB utilize the A-102 to better mitigate the risk of waste, fraud and abuse. While states follow § 200.317, other non-federal entities must conform to the guidance in §§ 200.318 – 200.326. COFAR FAQ provides institutions a one-year grace period for complying with the UG procurement standards beginning with the first full fiscal year that starts after the effective date of December 26, 2014 (i.e., July 1, 2015); therefore, implementation of the procurement standards is not required until July 1, 2016.</p> <p>Procurement standards are significantly different from A-110 and potentially create new administrative burden. See § 200.318 (related UG policy: § 200.112 Conflict of Interest).</p> |
| <b>WHAT THE PI NEEDS TO KNOW</b>  |   |
| <b>Procurement Standards</b>      | <p>The PIs need to understand the importance of standard thresholds that trigger additional purchase documentation and requirements:</p> <ul style="list-style-type: none"> <li>• &lt;\$2,999.99 (inclusive of tax and shipping) – No additional documentation</li> <li>• \$3,000.00 - \$149,999.99 (inclusive of tax and shipping) – Price reasonableness and the history of the purchase must be documented.</li> <li>• &gt;\$149,999.99 (inclusive of tax and shipping) – This threshold requires a competitive environment, which will take care of the documentation for purchase history, cost analysis and price reasonableness.</li> </ul>  |



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|   | <p>PIs should get Procurement involved early on in the transaction. The PI will also need to understand they will be asked to clearly and completely document price analysis/reasonableness, if the transaction was not awarded via competitive bid.</p> <p>In addition, if competitive a bidding process is necessary, PIs should also involve Procurement early on to effectively navigate the process.</p> <p>If the PI does not solicit more than one company for a purchase under \$150,000 (or \$100,000 if we determine that state law prevails), Procurement will be asking the PI and/or department buyer to justify the purchase with more quotes. Obtaining two (three?) or more quotes will speed up their ordering process.</p> |
| <b>Pre-Procurement Review</b>             | <p>(Purchasing) A non-federal entity is exempt from the pre-procurement review if the federal agency determines that its procurement system complies with the standards or if the non-federal entity self certifies its system.</p> <p>UCOP recommends UC campuses either go through the Contractor Purchasing System Review (CPSR) audit to certify their procurement systems, or follow OP guidance for self-certification.</p>  |
| <b>Conflict of Interest</b>               | <p>The PI needs to understand what “conflict of interest” means, and that they must report any potential business relationship with a contracting party.</p>   |
| <b>Equipment</b>                          | <p>The Uniform Guidance introduces differing standards for the allowability of computing equipment as direct costs, depending on whether the equipment is a capital or non-capital expenditure. There is also ambiguity among various sections concerning whether equipment disposal costs are allowable direct charges.</p>   |
| <b>WHAT THE PI NEEDS TO KNOW</b>          |  |
| <b>Equipment and Capital Expenditures</b> | <p>There is no change from the current policy. General-purpose equipment is unallowable as a direct cost, except with the prior written approval of the federal awarding agency or pass-through entity.</p> <p>If the possibility exists that equipment needs to be shipped back to the government or another agency, funds should be reserved in the award for such costs, prior to closeout, or be allowable additional costs (since awards typically close before final resolution of equipment issues is made).</p>  |

| <b>Subawards</b>                 |   |
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| <b>WHAT THE PI NEEDS TO KNOW</b> |   |
| <b>Fixed-amount Awards</b>       | <p>PIs should be advised that if a fixed-amount subaward is desired, this needs to be articulated in the proposal budget and/or justification at the proposal stage. Another option is to seek approval from the federal awarding agency at the award stage. (Note: This may delay issuance of the subaward.) Currently, campuses usually make a decision at the award stage based on subawardees' audit standing, financial capabilities and/or whether there is an indirect cost rate agreement.</p> <p>§ 200.201 (New) Certification of completion at end of fixed subaward: The (subawardee) non-federal entity must certify in writing to (UC) the pass-through entity at the end of the federal award that the project or activity was completed or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the federal award (subaward) must be adjusted.</p>   |
| <b>Required Information</b>      | <ul style="list-style-type: none"> <li>PIs will only need to be informed of § 200.330's revised language on those campuses where PIs make subrecipient/contractor determinations for disbursement from their federal awards. In that case, the campus's SPO must communicate § 200.330's criteria for making such determinations to the PI and must ensure that the PI documents and certifies how each determination is made.</li> <li>PIs should be informed that they cannot terminate a subaward without first providing a notice of termination. Additionally, if the termination was due to the non-federal entity's non-compliance, the notification must state that the termination may affect future applications.</li> <li>PIs should also be made aware of § 200.340's new reporting requirements, which will likely result in information about a PI's poor performance or failure to comply with federal law or the terms and conditions of the award being disseminated to other federal agencies.</li> <li>PIs need to know that they must now carefully monitor and accurately report performance of their subrecipients. They also need to understand that poor performance of their subawardees <b>will</b> be reported via the federal website, which is viewable by the general public. This is a mandatory federal requirement.</li> </ul> |
| <b>Subrecipient Monitoring</b>   | <p>Department liaisons should call PIs' attention to new certifying language on subaward invoices and make sure that PIs understand that their award could be at risk if they sign an invoice authorizing payment of funds to a subrecipient without first thoughtfully evaluating the subrecipient's progress.</p> <p>The PI should be informed if the university issues a management decision to a subrecipient as a result of an audit conducted by the university. Monitoring by the university must include review of financial and programmatic</p>   |



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|   | <p>reports required by UC.</p> <p>§ 200.305 requires payment of subawardees' invoices, for cost reimbursable subawards, to be paid within 30 days of receipt of invoice — "When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper."</p> |
| <b>Facilities and Administrative Costs</b>  |   |
| <b>WHAT THE PI NEEDS TO KNOW</b>  |   |
| <ul style="list-style-type: none"> <li>• It is generally inappropriate to reduce IDC on federally funded awards.</li> <li>• Exclusion of participant support costs are now a part of all federal budgets. Ensure that PIs appreciate that these are for non-UC employee costs, generally associated with a conference or training grant.</li> </ul> <p>If the subrecipient already has a negotiated F&amp;A rate with the federal government, the negotiated rate must be used. It is not permissible to force or entice a proposed subrecipient without a negotiated F&amp;A rate to accept less than the de minimis rate.</p> <p>If a federal program has a published statutory F&amp;A cap, that rate must be used both by UC and all of its subrecipients. For all other federal programs, if a subrecipient has a federally negotiated F&amp;A rate, it must be used. *If the entity does not have a negotiated F&amp;A rate, a 10% de minimus F&amp;A rate may be used instead, or UC may negotiate an F&amp;A rate with the subrecipient.</p> <p>There is no change to UC's recovery of its Federal Negotiated F&amp;A Rate and in particular, in instances where UC is a subawardee.</p> <p>*UC is still evaluating this option and will implement policies in the near future.</p> |   |
| <b>Prior Approvals</b> <p>This section provides a list of circumstances that require prior written approval of the federal entity (awarding agency or cognizant agency) before such action can be taken by the campus. Many of these prior approval requirements outlined in § 200.407 of the UG are not new and have not changed from previous circulars. The list below focuses on those requirements that are new or have changed.</p>   |   |
| <b>WHAT THE PI NEEDS TO KNOW</b>  |   |
| <b>Cost Sharing or Matching</b>   | <p>Voluntary cost sharing is NOT permitted on any federal proposal.</p> <p>Using the unrecovered indirect costs (when solicitation limits recovery of indirect costs to less than the full</p>  |

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|   | negotiated rate) to offset cost-share component in proposals that require mandatory cost-sharing calls for agency prior approval. If this is included in proposal budgets, it must be specifically requested via the budget justification section.  |
| <b>Program Income</b>                       | If a project generates program income, and the PI wishes to use it (to carry out the purpose of the award), prior approval must be secured.   |
| <b>Revision of Budget and Program Plans</b> | <p>PIs can now be absent from the project (location) and be still “engaged” in research activities without getting prior approval and/or a temporary replacement PI.</p> <p>A reduction in PI’s effort of 25% or more requires prior approval.</p> <p>Rebudgeting of funds earmarked for participant support costs requires prior approval.</p> <p>Prior approval is required for re-budgeting cost share. (Specifically, cost share must be delivered for the purpose for which it was promised.)</p>  |
| <b>Fixed-amount Subawards</b>               | <p>Agency prior approval is now required to enter into a fixed-amount subaward rather than a cost-reimbursement subaward, and the total value of each fixed-amount subaward may not exceed \$150,000. To expedite agency approval and subsequent issuance of the subaward, PIs/departments should add a new justification statement to proposals contemplating a fixed-amount subaward.</p> <p>(Think about this in advance of issuing the initial fixed-amount subaward as it relates to multiyear projects. You will need to end the subaward when you reach \$150,000 cumulatively and issue a new subaward, which would require assessing the indirects on the first \$25,000 again.)</p> <p>OMB FAQ 332-1. It is acceptable to have more than one fixed-amount subaward with the same subrecipient if necessary to complete work contemplated under a federal award. It is expected, however, that each fixed amount subaward will have its own distinct statement of work and be priced for the work and deliverables that will be due under that subaward, and that prior approval of the federal awarding agency is required for each subaward issued under funding received on or after 12/26/14, as outlined in § 200.332. Non-federal entities having special circumstances, including an unanticipated need to increase a fixed-amount subaward above the threshold, should consult with their federal awarding agency for guidance on how to complete the planned scope of work with the least amount of administrative burden. <i>(Note that this is not a mechanism for using a fixed-amount</i></p> |

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|   | <i>subaward when it is known in advance that there is a great likelihood of exceeding the \$150,000 threshold.)</i>   |
| <b>Administrative or Clerical Costs</b>                     | New as an allowable charge; however, prior approval is still required. In instances where these costs are contemplated, in order to expedite matters in the event of an award, it is recommended that prior approval be sought at the proposal phase (i.e., include in the budget and fully justify and request via the budget justification).  |
| <b>Compensation — Personal Services</b>                     | <p>Formal Effort Reporting is replaced with this new terminology, placing greater emphasis on Internal Controls.</p> <p>(h)(1)(ii) Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (h)(9) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the federal award budget or receive prior written approval by the federal awarding agency.</p> <p>Incidental activities for which supplemental compensation is allowable under written institutional policy.</p> <p>Charges of a faculty member's salary to a federal award must not exceed the proportionate share of the Institutional Base Salary (IBS) for the period during which the faculty member worked on the award and requires prior approval if not included in the award budget.</p> |
| <b>Entertainment Costs</b>                                  | <p>Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the federal award or with prior written approval of the federal awarding agency.</p> <p>Where possible and when necessary for the project, these costs will need to be included in the applications to the funding agency or be the subject of a prior approval request after the award has been made.</p>   |
| <b>Exchange Rates</b>                                       | PIs/departmental administrators, should notify Sponsored Projects offices ASAP if they feel their project qualifies for additional funding as a result of fluctuation in exchange rates (e.g., foreign subs, etc.).   |
| <b>Memberships, Subscriptions and Professional Activity</b> | Costs of membership in any civic or community organization are allowable with prior approval by the federal awarding agency or pass-through entity.   |

## UNIFORM GUIDANCE WORKGROUP ASSESSMENT REPORT / APPENDIX E

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| <b>Costs</b>   |   |
| <b>Participant Support Costs</b>   | Inclusion of this direct cost requires prior approval. For expediency, in the approval process, include and fully justify in proposal applications when necessary to carry out the project.   |
| <b>Pre-award Costs</b>   | Now requires “written” approval. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the federal award and only with the written approval of the federal awarding agency.   |
| <b>Travel Costs</b>  | <p>Dependent care travel costs cannot be included in proposal budgets until UC establishes a policy.</p> <p>PIs need to understand that this new allowance of dependent care costs is NOT to pay for the travel expenses of their dependents accompanying them on their travel, but rather to pay for temporary expenses that are above and beyond normal care and that are a direct result of the employee’s travel. For example, an employee with a small child must travel for two days, leaving at 8 a.m. Monday and returning at 5 p.m. Tuesday. Because the project necessitates the employee being in attendance on Tuesday, the employee must stay overnight. The grant cannot pay for child care expenses incurred during the normal work day on Monday or Tuesday but can pay for expenses incurred to provide care for Monday night.</p> |
| <b>Internal Control</b>  | <p>“Internal Control” is one of the most frequently repeated phrases in the Uniform Guidance. In the previous circulars, Internal Control was mainly cited as an audit requirement in A-133, often considered by entities only after the funds had been spent. In the Uniform Guidance, OMB clearly emphasizes the importance of Internal Controls by defining them, clearly identifying source documentation for best practices and including internal controls in the post-award management standard requirements.</p> <p>NOTE: Acceptable audits in previous years should not be relied upon as an indication that internal controls are sufficient.</p>   |
| <b>WHAT THE PI NEEDS TO KNOW</b>   |   |
| <ul style="list-style-type: none"> <li>• Effective internal controls help mitigate risks of waste, fraud and abuse.</li> <li>• PIs should familiarize themselves with campus internal control best practices and take necessary steps to comply.</li> <li>• The consequences of noncompliance, as stated in § 200.338, may include withholding funds, cost disallowances, suspension or termination of the award, and could affect future funding to you and/or to the campus.</li> <li>• Inform PIs on the new explicit personally identifiable information (II) requirement: <b>“Personally identifiable information” (PII)</b>, as</li> </ul> |   |

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| <p>used in U.S. privacy law and information security, is information that can be used on its own or with other information to identify, contact or locate a single person, or to identify an individual in context.</p> <ul style="list-style-type: none"> <li>PII is any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial and employment information.</li> </ul>  |
| <p><b>Financial Management and Reporting</b></p>   |
| <p><b>WHAT THE PI NEEDS TO KNOW</b></p>  |
| <p>PIs should expect changes in the campus guidelines and system configuration to properly account, record and report program income activities. PIs will be responsible for the following:</p> <ul style="list-style-type: none"> <li>Identifying sources of actual and potential program income at the proposal stage and checking the "Program Income is anticipated" box on the Proposal-Routing and Authorization Form</li> <li>Developing the budget for using program income.</li> <li>Generating program income.</li> <li>Monitoring the receipt and recording of program income.</li> <li>Ensuring that the expenditure of program income is compliant with award restrictions.</li> <li>The PI should be made aware of the potential adverse impact of buying items in bulk or purchasing supplies toward the end of an award.</li> <li>Inform PI there is increased importance of timely progress reporting including the reporting of both significant positive and negative impacts on projects. In addition, federal guidelines are moving toward stricter rules for award closeout.</li> <li>Final financial reports (and other technical reports) must be submitted on time, which requires PI to closely monitor expenditures especially toward the end of the award performance period.</li> <li>PI must work closely with departmental administrators to review the award activities and make the necessary changes in a timely manner.</li> <li>Sponsors may (and have recently) question and/or deny expenditures (and related drawdown) submitted after the permitted closeout period.</li> <li>There will be new campus policies and guidelines that may change the way award closeouts are managed.</li> <li>PIs will need to understand the certification and how their actions could legally affect the institution or an individual at the institution.</li> </ul> <p><b>Related FAQ for consideration by PIs who frequently purchase computers on federal grants (note that this is uncharted waters for</b></p> |

**UC):**

Q: Are computers or computing devices to be factored in to the residual inventory of unused supplies?

A: Per § 200.94, a computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life.