OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards

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Today’s Agenda

• Purpose of the revision
• Major Changes
• Impact
• Questions and Answers
Purpose of the Revision

• 2 CFR 200 (103 page document) was published in the Federal Register on December 26, 2013.
• Supersede requirements of OMB Circulars A-21, A-87, A-110 and A-122 (Cost Principles)
• Supersede requirements of OMB Circulars A-89, A-102, and A-133 (Audit and Administrative Requirements)
• Administrative and cost principle changes applicable for new awards and additional funding increments of existing awards made after December 26, 2014
• Single audit changes effective for years ending December 31, 2015 and after
Purpose of the Revision

- Reduce administrative burden for those receiving federal awards, while also reducing risk of waste, fraud, and abuse
- Improve the integrity of financial management and operation of federal programs
- Strengthen accountability for federal dollars by improving policies that protect against waste, fraud, and abuse
- Increase impact and accessibility of programs by minimizing time spent complying with unnecessarily burdensome administrative requirements
Purpose of the Revision

- Reorient recipients toward achieving program objectives
- Grants awarded based on merit
- Increased management focus on performance outcomes
- Streamlined rules governing federal funds
- Single audit oversight tool is better focused to reduce waste, fraud, and abuse
Document Organization

- 6 Subparts (broken into 3 major sections)

**Administrative Requirements:**
- Subpart A, 200.XXX - Acronyms and Definitions
- Subpart B, 200.1XX - General
- Subpart C, 200.2XX - Pre-Award – Federal
- Subpart D, 200.3XX - Post-Award – Recipients

**Cost Principles:**
- Subpart E, 200.4XX - Cost Principles

**Audit Requirements:**
- Subpart F, 200.5XX - Audit Requirements
Subpart A - Definitions
Major Changes – Subpart A

- Definitions
  - No significant definition changes
  - The 99 definitions are in separate sections (and therefore are listed in the index)
  - Terms are broad to encompass all requirements (administrative, cost principles, audit) and all types of entities receiving Federal awards
  - “Must” means “required”
  - “Should” indicates best practices or recommended approach
Subpart B – General Provisions
Major Changes – Subpart B

• Section 200.101 - Applicability
  • describes the applicability of each subpart to types of Federal awards
  • HUD will determine applicability and state the applicable requirements in the terms and conditions of the Federal award
  • Likewise, funding agencies such as CSB must state HUD’s applicable requirements for recipients in the terms and condition of each sub-award
Subpart C – Pre Award Requirements
Major Changes – Subpart C

- Section 200.205 – Federal awarding agency review of risk posed by applicants
  - Suspension and debarment regulations (not new)
  - Federal awarding agency must also consider risks, such as:
    - Financial stability
    - Quality of management systems
    - History of performance
    - Reports and findings from audits
    - Ability to effectively implement statutory, regulatory, or other requirements
Subpart D – Post Award Requirements
Major Changes – Subpart D

- Standards for Financial and Program Management
- Property Standards
- Procurement Standards
- Performance and Financial Monitoring and Reporting
- Subrecipient Monitoring and Management
- Record Retention and Access
- Remedies for Noncompliance
- Closeout
- Post-Closeout Adjustments and Continuing Responsibilities
- Collection of Amounts Due
Major Changes – Subpart D

• Section 200.303 - Internal Controls
  • Must establish and maintain effective internal control over compliance
  • Must take prompt action to correct instances of noncompliance identified during audits
  • Must take reasonable measures to safeguard protected personally identifiable information
Major Changes – Subpart D

- Section 200.309 – Period of Performance
  - A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or passthrough entity.
Major Changes – Subpart D

• Section 200.318 - General procurement
  • Paragraphs (d), (e), and (f) require the non-Federal entity to avoid duplicative purchases by:
    • Consolidating procurements
    • Lease vs. purchase analysis
    • Entering into inter-entity agreements
    • Using Federal excess and surplus property in lieu of purchasing new property
Major Changes – Subpart D

5 Methods of procurement

1. Micro purchases
   • Aggregate amount does not exceed $3k ($2k if subject to Davis Bacon)
   • When practical, distribute equitably among qualified suppliers
   • No competitive quotes required if management determines price is reasonable.
Major Changes – Subpart D

5 Methods of procurement

2. **Small purchases**
   - Purchases up to the Simplified Acquisition Threshold *(currently $150,000)*
   - Informal procedures acceptable
   - Price or rate quotes must be obtained from an adequate number of sources.
Major Changes – Subpart D

5 Methods of procurement

3. **Sealed Bids**
   - Purchases over the Simplified Acquisition Threshold (currently $150,000)
   - Formal solicitation required
   - Fixed price (lump sum or unit price) awarded to responsible bidder who conformed with all material terms and is the lowest in price.
   - Most common for construction contracts
Major Changes – Subpart D

5 Methods of procurement

4. Competitive Proposals
   • Purchases over the Simplified Acquisition Threshold (currently $150,000)
   • Formal solicitation required
   • Fixed price or cost-reimbursement contracts.
   • Used when sealed bids not appropriate
   • Awarded to responsible firm whose proposal is most advantageous to the program, with price being one of various factors
5 Methods of procurement

5. **Non-Competitive Proposals**
   May be used only when one or more of the following apply:
   - The item is available only from a single source
   - The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
   - The Federal awarding agency (or pass-through entity) expressly authorizes this method in response to a written request from the non-Federal entity
   - After solicitation of a number of sources, competition is determined inadequate
Major Changes – Subpart D

• Section 200.330 – Subrecipient and contractor determinations
  • Each pass-through entity must make case-by-case determinations for each agreement to disburse federal funds
  • Pass-through entity must use judgment in classifying each agreement as subaward vs. procurement contract
  • Document decisions
Major Changes – Subpart D

- Section 200.330 (a) – Characteristics of subrecipient:
  - Determines who is eligible
  - Has performance measured against Federal program objectives
  - Responsible for programmatic decisions
  - Responsible for adherence to Federal program requirements
  - Uses funds for public purpose as opposed to benefit of pass-through
Major Changes – Subpart D

• Section 200.330 (b) – Characteristics of contractors:
  • Provides good/services within normal operations
  • Provides similar goods/services to many purchasers
  • Operates in a competitive environment
  • Provides ancillary goods/services
  • Not subject to compliance requirements
Major Changes – Subpart D

• Section 200.331 – Subrecipient Monitoring
  • Pass-through must evaluate subrecipient’s risk of noncompliance and tailor monitoring. Factors to consider:
    • Prior experience with same or similar sub-awards
    • Results of previous audits
    • Whether new or substantially changed personnel or systems
    • Extent and results of HUD monitoring
Major Changes – Subpart D

- Section 200.331 – Subrecipient Monitoring (cont)
  Suggested monitoring tools
  - Monitor financial and program results
  - Provide subrecipients with training and technical assistance
  - Perform on-site reviews (HUD requires at least annual reviews)
  - Determine necessary action for subrecipient noncompliance, follow up, issue management decision
Major Changes – Subpart D

- Section 200.333 – Retention requirements for records
  - Financial records, supporting documents, statistical records, and all other pertinent records must be retained for a period of three years from the date of submission of the final expenditure report
Major Changes – Subpart D

- Section 200.338 – Remedies for Noncompliance
  - Temporarily withhold cash payments pending correction
  - Disallow all or part of the cost
  - Wholly or partly suspend or terminate the award
  - Initiate suspension or debarment proceedings
  - Withhold further Federal awards
Major Changes – Subpart D

• Section 200.343 – Closeout
  • Non-Federal entity must closeout within 90 days after the end of period of performance
  • Non-Federal entity must liquidate all obligations within 90 days after the end of period of performance
• Section 200.345 – Collection of amounts due
  • Any funds paid to a non-Federal entity in excess of federal expenditures must be returned within 90 days after demand
Subpart E – Cost Principles
Section 200.403 - 405 - Reasonable, Allowable, Documented, Allocable, Reimbursable

- Reasonable - costs are ordinary and necessary. Reflects the action of a prudent person.
- Allowable - consistently treated and conform to any limitations or exclusions set forth in the cost principles or the program requirements.
- Documented - adequately documented as outlined in Section 200.300.
- Allocable - Is there a reasonable benefit between the cost allocated and receiving activity?
- Reimbursable - follows cost principles regulations and program requirements. Is not included as a cost or used as match for other federally financed programs.
Major Changes – Subpart E

• Section 200.413 - Direct costs
  • Costs that can be identified specifically with a particular final cost objective
  • Specifically allows administrative costs if:
    • Administrative or clerical services are integral to a project
    • Individuals can be specifically identified with the project
    • Costs are specifically in the budget
    • Costs are not recovered as indirect
**Major Changes – Subpart E**

- Section 200.414 – Indirect (F&A) costs
  - Typical indirect costs are depreciation, costs of operating facilities, and general administrative expenses
  - Negotiation of indirect rates has not changed
  - Non-Federal entities that has never received a negotiated indirect cost rate may elect to charge a de minimis rate (10%) of modified total direct costs *(CSB has been asked by the local field office to review and approve the method used for MTDC prior to charging de minimis)*
Major Changes – Subpart E

- Section 200.414 – Indirect (F&A) costs (cont)
  - Modified Total Direct Cost Base is defined in Section 200.68
    - Includes direct salaries and wages, applicable fringe benefits, materials, supplies, services, travel, sub-awards/subcontracts up to the first $25k of each sub-award/subcontract.
    - Excludes equipment, capital expenditures, rental costs, and sub-award/subcontract in excess of $25k.
Major Changes – Subpart E

• Section 200.430 – Compensation
  • Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed
Major Changes – Subpart E

• Section 200.430 (i) – Standards for Documentation of Personnel Expenses
  • These records must:
    • Be supported by a system of internal control
    • Be incorporated into the official records
    • Reasonably reflect 100% of the employee’s activity
    • Comply with accounting policies and practices
Subpart F – Audit Requirements
Major Changes – Subpart F

- Section 200.501 – Audit requirements
  - Single Audit requirement increased from $500,000 to $750,000
  - Applicable for audit periods beginning after December 26, 2014
    - December 31, 2015 year end is first applicable year
  - All other Subparts are still applicable
Major Changes – Subpart F

- Section 200.516 – Audit findings
  - Auditors are now required to report known questioned costs that are greater than $25,000, or
  - Known questioned costs when likely questioned costs are greater than $25,000
  - This is currently $10,000
Impact on non-Federal Entities

- Clear necessity for written policies and procedures
- Merit based and performance focused
- How will your entity differentiate your programs?
- Need to risk assess and collect performance information from subrecipients
Resources

• Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards:
  http://www.gpo.gov/fdsys/search/home.action
  http://www.ecfr.gov

• Council on Financial Assistance Reform (COFAR)
  https://cfo.gov/COFAR/
Questions?