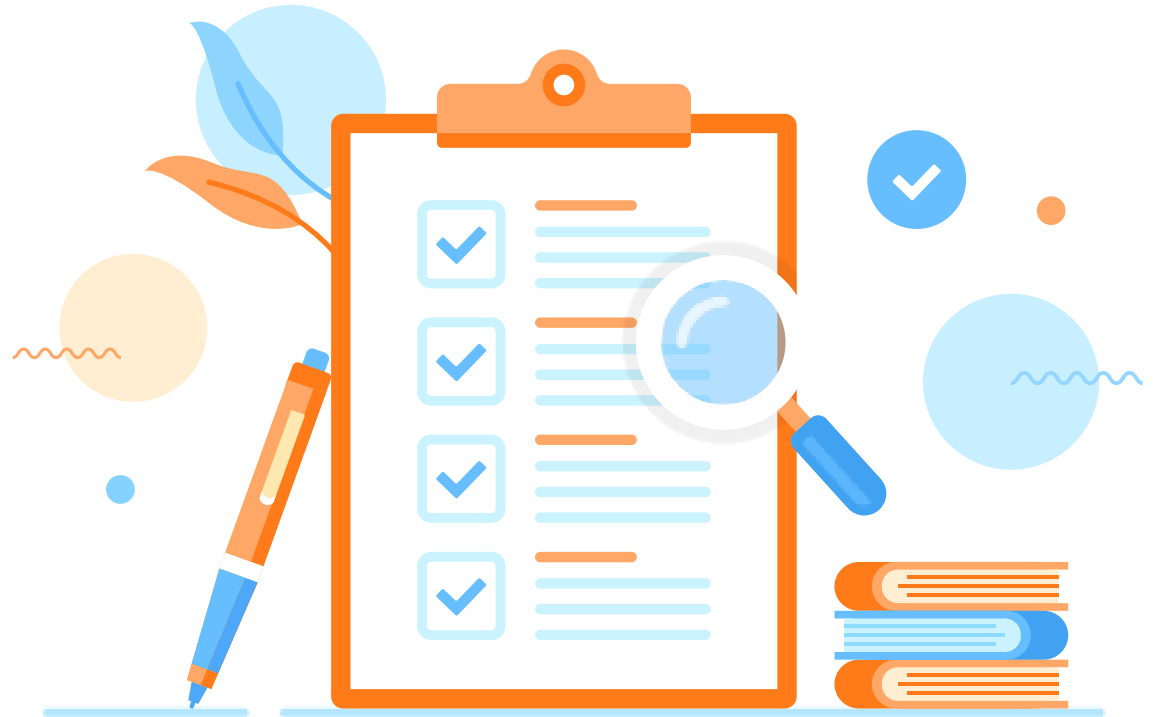




# Final Uniform Guidance Revisions

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- Definitions + General Provisions
- Pre / Post Award Administrative Requirements
- Cost Principles
  - De minimis and Negotiated Rates
  - Specific Items of Cost
- Single Audit

# Background

- First took effect December 26, 2013
- OMB required to review UG every 5 years (2 CFR § 200.109)
  - First significant revisions took effect November 12, 2020
    - Not adopted by HHS
  - Current revisions proposed October 5, 2023
- CAPLAW, NCAP + NASCSP submitted comments on proposed revisions

# Background

Four main objectives for revisions:

1. Incorporate statutory requirements and administration priorities;
2. Reduce federal agency and recipient burden;
3. Clarify differing interpretations; and
4. Rewrite sections in plain language, improving flow, and addressing inconsistent use of terms

# Final Rules

- Effective date **October 1, 2024**
- Federal agencies must submit implementation plans by May 15
- Early adoption possible:
  - 60 days after publication of final rule in federal register, so starting June 21
  - If permitted by federal agency



# Final Rules

- Preamble to the Final Rule
- Replaced “non-federal entity” with “recipient” and/or “subrecipient”
  - EXCEPT in Subpart F – Single Audit
- A LOT of language is moved around/streamlined/restructured
  - No policy change intended
- See CFO.gov, [www.cfo.gov/resources/uniform-guidance/](http://www.cfo.gov/resources/uniform-guidance/), for resources about the final rule

# Uniform Guidance Overview

<b>Subpart A</b>	Acronyms and Definitions
<b>Subpart B</b>	General Provisions
<b>Subpart C</b>	Pre-Award Requirement and Contents of Federal Award
<b>Subpart D</b>	Post-Federal Award Requirements
<b>Subpart E</b>	Cost Principles
<b>Subpart F</b>	Audit Requirements
<b>Appendices</b>	IV (Nonprofit CAAs); V (Public CAAs)





# **DEFINITIONS + GENERAL PROVISIONS**

# Subpart A: Definitions

## Budget Period

- **[CLARIFIED]** that recipients and subrecipients are authorized to “*incur financial obligations of the funds awarded*” during the budget period

# Subpart A: Definitions

## Cost Sharing

- **[MODIFIED]** by removing “matching” as part of the defined term and added language explain that cost sharing includes matching
  - Noted that matching refers to required levels of cost share that must be provided.

# Subpart A: Definitions

## Equipment

- **[MODIFIED]** threshold used to determine if tangible personal property is equipment so it is now \$10,000
  - Analysis is that personal property is equipment if it has (1) a useful life of more than one year and (2) a per-unit acquisition cost that equals or exceeds the lesser of
    - the capitalization level established by the recipient or subrecipient for financial statement purposes, **OR**
    - \$10,000.

# Subpart A: Definitions

## Financial Obligation

- **[NEW]** “orders placed for property and services, contracts and subawards made, and similar transactions that require payment by a recipient or subrecipient under a Federal award that will result in expenditures by a recipient or subrecipient under a Federal award.”
  - Clarifies when a financial obligation occurs
  - Recognizes expenditures are not always contemporaneous with a financial obligation

# Subpart A: Definitions

## Improper Payments

- **[MODIFIED]** language clarifying when payments are not improper, by removing:
  - Applicable discount credits advantageous to agency and within its control to claim may not be
  - Interest or other fees resulting from an underpayment by an agency if interest correctly paid
- Moved clarification that “questioned costs” are not considered improper payments until transaction completely reviewed

# Subpart A: Definitions

## Indirect Costs

- **[CLARIFIED]** to no longer include reference to “facilities and administrative (F&A)” costs
  - Not a substantive change
  - Intended to reflect the broader nature of indirect costs as F&A is more often used in the Institutions of Higher Education context

# Subpart A: Definitions

## Modified Total Direct Costs (MTDC)

- **[MODIFIED]** to increase the amount of each subaward that may be included in the MTDC base to “up to the first \$50,000”
  - Noted that subcontracts are not included



# Subpart A: New Definitions

## Participant

- **[NEW]** “generally means an individual participating in or attending program activities under a Federal award, such as trainings or conferences, but who is not responsible for implementation of the Federal award... .”
  - Clarifies that a participant is not developing or delivering the program
  - Provides examples of participants

# Subpart A: Definitions

## Prior Approval

- **[NEW]** “the written approval obtained in advance by an authorized official of a Federal agency or pass-through entity of certain costs or programmatic decisions”
  - Notes in the preamble when “after-the-fact approval” may occur but does not add language

# Subpart A: Definitions

## Supply

- **[MODIFIED]** threshold used to determine if a computing device is a supply is now \$10,000
  - Analysis is that it is a supply if the acquisition cost of the computing device is the lesser of:
    - the capitalization level established by the recipient or subrecipient for financial statement purposes, **OR**
    - \$10,000, regardless of length of its useful life.

# Subpart B: General Provisions

## Purpose

- **[MODIFIED]** to remove language that federal agencies are required to bear their fair share of the benefit received from a cost (2 C.F.R. § 200.100)
  - Cost principles speak to this concept so no need to state again here
  - Language not require agencies to take specific actions
  - Removal in no way indicates to the contrary

# Subpart B: General Provisions


## Mandatory Disclosures

- **[MODIFIED]** to replace threshold of reporting “violations” of criminal law in a timely manner to the federal award agency with (2 C.F.R. § 200.113):
  - “Credible evidence” of a violation
  - “Promptly” reporting”
  - “In connection” with a Federal award including subawards
  - “To the Federal Agency, Office of Inspector General and pass-through entity (if applicable)” and “in writing”

# Subpart B: General Provisions

## Mandatory Disclosures

- **[MODIFIED]** language is intended to:
  - Further align with FAR disclosure requirements
  - Not require complex investigation but rather the taking of reasonable steps to determine if evidence is credible
  - Not trigger an open-ended investigation
  - Emphasize that there must be a nexus to the federal award, in recognition of the broadness of the requirement



**PRE / POST AWARD  
ADMINISTRATIVE  
REQUIREMENTS**

# Subpart C: Pre-Award Requirements

## Funding Instruments – Fixed Amount Awards

- **[MODIFIED]** Fixed amount awards may generate and use program income (2 CFR § 200.201(b)(3))
- **[MODIFIED]** Raised the threshold for when a Federal Agency can issue fixed amount subawards to \$500,000. (2 CFR § 200.333)



# Subpart C: Pre-Award Requirements

## Notices of funding opportunities

- **[MODIFIED]** NOFO guidance to encourage Federal agencies to make it more accessible and comprehensible. (2 CFR § 200.204)
  - Encourages plain language and permits pre-application technical assistance
  - Adds executive summary requirement
  - Includes changes in the updated NOFO form in Appendix I to Part 200.

# Subpart C: Pre-Award Requirements

## Never contract with the enemy

- **[CLARIFIED]** subrecipients are subject to the regulations implementing Never Contract with the Enemy (2 *CFR* § 200.215)

# Subpart C: Pre-Award Requirements

## Telecommunications + surveillance equipment or services

- **[CLARIFIED]** Emphasized the prohibition against the purchasing and procurement of covered equipment. (2 CFR § 200.216)
  - Prohibition still applies to program income
  - Opted not to include clarifying language that could be construed to impose "use" restriction on recipients and subrecipients

# Subpart C: Pre-Award Requirements

## Whistleblower protections

- **[NEW]** protections for whistleblowers (2 CFR § 200.217)
  - Covers disclosures relating to a Federal contract or grant
  - Employee must “reasonably believe” there is evidence of gross mismanagement, gross waste, abuse of authority, a substantial and specific danger to public health or safety, or a violation of law, rules, or regulations.

# Subpart D: Post-Award Requirements

## Statutory and national policy

- **[CLARIFIED]** existing nondiscrimination requirements as related to gender identity and sexual orientation, consistent with *Bostock v. Clayton County*. (2 CFR § 200.300)
  - Referring to the 5th Amendment's equal protection guarantee.

# Subpart D: Post-Award Requirements

## Program income

- **[CLARIFIED]** program income allowability for certain closeout costs. (2 *CFR* § 200.307)
  - Restricted to use only within the period of performance

# Subpart D: Post-Award Requirements

## Revision of budget and program plans

- **[MODIFIED]** A change of subrecipient only requires prior approval if the Federal agency or pass-through entity includes the requirement in the terms and conditions of the Federal award. (*2 CFR § 200.308(f)(6)*)
  - A Federal agency or pass-through entity should not require prior approval of a change of subrecipient unless the inclusion was a determining factor in review or eligibility.
  - This provision does not apply to procurement transactions for goods and services.

# Subpart D: Post-Award Requirements

## Real Property

- **[NEW]** requirement establishing standards for conducting appraisals of real property, when required under the Federal award. (*2 CFR § 200.311*)
  - Must use independent appraiser to conduct appraisals.
  - Responsible official of the recipient or subrecipient must certify appraisals.



# Subpart D: Post-Award Requirements

## Equipment and Supplies

- **[NEW]** threshold values for equipment and supplies increased from \$5,000 to \$10,000 (2 *CFR* §§ 200.313 - 314)
  - Equipment valued at \$10,000 or less per unit may be retained, sold, or disposed of with no further responsibility to the Federal agency/pass-through entity.
  - When there is inventory of unused supplies exceeding \$10,000 in aggregate value at the end of the period of performance, recipient/subrecipient may retain or sell the unused supplies provided you compensate the federal agency for its contribution.

# Subpart D: Post-Award Requirements

## Competition

- **[MODIFIED]** OMB removed the prohibition on using geographic preference requirements. (2 *CFR* § 200.319)
  - Use of scoring mechanisms not prohibited to reward bidders committing to specific numbers of U.S. jobs and certain compensation and benefits

# Subpart D: Post-Award Requirements

## Procurement methods

- **[CLARIFIED]** micro purchases may be awarded without soliciting competitive price or rate quotations if recipient or subrecipient (2 CFR § 200.320):
  - Considers the price reasonable and
  - Maintains documents to support its conclusion

# Subpart D: Post-Award Requirements

## Contracting with small businesses . . . .

- **[MODIFIED]** the types of businesses that recipients and subrecipients are encouraged to consider for procurement contracts to include veteran-owned businesses. (2 CFR § 200.321)

# Subpart D: Post-Award Requirements

## Procurement of recovered materials

- **[MODIFIED]** Encourages recipients and subrecipients to purchase, acquire, or use products and services that can be reused, refurbished, or recycled, and that are sustainable. (2 *CFR* § 200.323)

# Subpart D: Post-Award Requirements

## Contract cost and price

- **[MODIFIED]** Removed the requirement to negotiate profit as a separate element of the price for each contract in which there is no price competition. (*2 CFR § 200.324*)
  - Recipients and subrecipients not prohibited from taking such action if necessary.

# Subpart D: Post-Award Requirements

## Subrecipient and contractor determinations

- **[CLARIFIED]** Federal agencies do not have a direct legal relationship with subrecipients and contractors of pass-through entities. (2 CFR § 200.331)
  - Federal agencies are still responsible for monitoring pass-through entity's oversight of first-tier subrecipients.

# Subpart D: Post-Award Requirements

## Closeout

- **[CLARIFIED]** Recipients must still submit a final financial report even when the recipient does not have a final indirect cost rate. (2 CFR § 200.344)(b))
  - An additional final report must be submitted when the indirect cost rate is finalized.



# **COST PRINCIPLES**

The background features a large white circle on the left side. To the right of the circle, there are several overlapping curved shapes in shades of blue and orange, creating a modern, abstract design.

# Subpart E: Cost Principles

## Key Updates in Part 200

- **Allowability factors (403)**
- **Prior approval (407)**
- **Indirect cost rates (414)**
- **Advertising/PR (421)**
- **Compensation (430)**
- **Fringe benefits (431)**
- **Conferences (432)**
- **Entertainment costs (438)**
- **Organization costs (455)**
- **Participant support costs (456)**
- **Termination costs (472)**

# Subpart E: Cost Principles

## Factors Affecting the Allowability of Costs

- **[NEW]** Administrative closeout costs may be incurred until the due date of the final report(s). (2 *CFR* § 200.403(h))
  - Costs must be liquidated prior to the due date of the final report(s); and
  - Charged to the final budget period of the award unless otherwise specified by the Federal agency

# Subpart E: Cost Principles

## Prior Written Approval

- **[NEW]** Prior written approval no longer required for the following costs (2 CFR § 200.407):
  - *Direct*
  - *Entertainment*
  - *Memberships*
  - *Participant support*
  - *Selling and marketing*
  - *Taxes*
- Even absent prior approval, must follow Cost Principles!

# Subpart E: Indirect Costs

## Acceptance of Negotiated Indirect Cost Rates

- **[NEW]** Recipient/subrecipient may notify OMB of any disputes with Federal agencies regarding the application of a federally negotiated indirect cost rate (*2 CFR § 200.414(c)(2)*)
  - Uncertainty over procedures post-notification
  - OMB noted that it would not serve as arbiter between recipient/subrecipient and federal agency

# Subpart E: Indirect Costs

## Acceptance of Negotiated Indirect Cost Rates

- **[CLARIFIED]** Pass-through entities **must** accept all federally negotiated indirect cost rates for subrecipients.  
(2 CFR § 200.414(d))

# Subpart E: Indirect Costs

## De minimis rate

- **[NEW]** up to **15% de minimis rate** now available to all non-federal entities that don't have a current rate (2 CFR § 200.414(f))
  - 15% of Modified Total Direct Cost (MTDC)
  - Recipient/subrecipient decide %, **not** federal agencies/pass-throughs unless required by federal statute or regulation
  - No documentation required
  - Can be used indefinitely

# Subpart E: Cost Principles

## Advertising and Public Relations

- **[CLARIFIED]** “program outreach” to include “recruiting project participants” as an example. (2 *CFR* § 200.421(b)(4))



# Subpart E: Cost Principles

## Compensation – Fringe Benefits

- **[NEW]** When using cash basis of accounting: “Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment **and must be allocated as a general administrative expense to all activities.**” (2 CFR § 200.431(b)(3)(i))

# Subpart E: Cost Principles

## Conferences

- **[CLARIFIED]** Removed language specifying type of gatherings considered “conferences” (2 *CFR* § 200.432)
- Broadened allowable conference costs:
  - No longer only costs paid by recipient/subrecipient as “a sponsor or host”
  - Includes attendee fees
  - Adds cost associated with “providing” not just “identifying” available dependent care resources “for participants”

# Subpart E: Cost Principles

## Entertainment Costs

- **[CLARIFIED]** OMB included prizes or challenges as allowable entertainment cost if they have a specific and direct programmatic purpose and are included in the Federal award. (2 *CFR* § 200.438)

# Subpart E: Cost Principles

## Organization Costs

- **[NEW]** OMB specified that unallowable costs include those for: “activities undertaken to persuade employees of the recipient or subrecipient, or any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees' own choosing.” (2 *CFR* § 200.455(b))

# Subpart E: Cost Principles

## Organization Costs

- **[NEW]** Costs related to data and evaluation are allowable (2 *CFR* § 200.455(c))
  - Data costs include (but aren't limited to) those to gather, store, analyze, disaggregate, share, and publish to administer or improve the program
  - Evaluation costs include (but aren't limited to) evidence reviews, evaluation planning, conducting evaluations, and sharing evaluation results

# Subpart E: Cost Principles

## Participant Support Costs

- **[NEW]** Must now document participant support costs in written policies and procedures (2 *CFR* § 200.456)
  - Emphasized that must treat these costs consistently across all Federal awards
  - Removed prior approval requirement

# Subpart E: Cost Principles

## Termination and Standard Closeout Costs

- **[NEW]** Administrative costs associated with closeout activities of a Federal award are allowable (2 *CFR* § 200.472(b))
  - Includes indirect costs in examples of allowable administrative closeout costs
  - Noted that closeout costs may be incurred until due date of final report

# SINGLE AUDIT



# Subpart F: Audit Requirements

## Key Updates

- **Audit requirements (501)**
- **Report submission (512)**

# Audit Requirements

## Single Audit Threshold

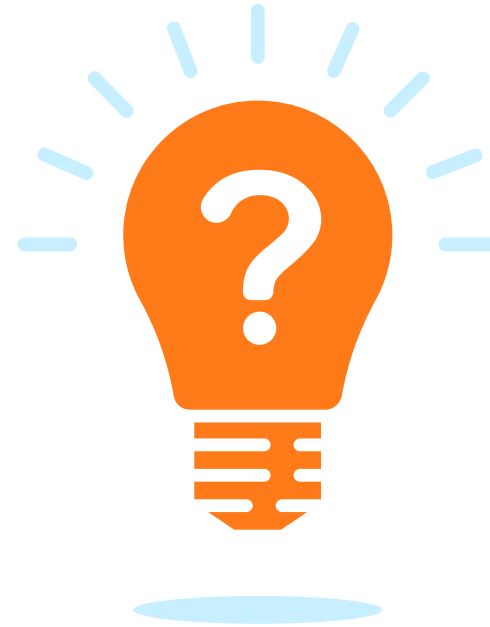
- **[NEW]** Expenditures of federal funds that triggers a Single Audit = \$1,000,000 (2 CFR § 200.501)
  - Time frame within which federal funds must be expended is the non-federal entity's *fiscal year*.

# Audit Requirements

## Report Submission

- **[NEW]** Cognizant agency for audit or oversight agency for audit may extend the due date for Single Audit submission.  
(2 CFR § 200.512)
  - Determination based on nine-month timeframe placing an undue burden on an auditee

# QUESTIONS?



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