

CALIFORNIA COMMUNITY COLLEGE WORKSHOP ON THE NEW EDGAR

FEDERAL GRANTS MANAGEMENT: NEW EDGAR/OMB UNIFORM GUIDANCE

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AGENDA

- The Importance and Structure of the New UGG/EDGAR
- Major changes
 - Financial management
 - Allowability
 - Procurement
 - Inventory
 - Audits



WHY??

- **Why now?**
 - **Streamlining**
 - **Consistency**
 - **Improve performance**
 - **Strengthen oversight**
 - **Reduce administration burden**

MAJOR CHALLENGES

1. Time and Effort Reporting
2. Indirect Costs

WHAT REGULATIONS APPLY TO MY GRANTS



REMEMBER!

- 2 CFR Part 200

PARTS OF EDGAR

1. 34 CFR Part 75 (Direct Grant Program)
2. 34 CFR Part 76 (State-Administered Programs)
3. 34 CFR Part 77 (Definitions that Apply to Department Regulations)
4. 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities)
5. 34 CFR Part 81 (General Education Provisions Act – Enforcement)
6. 34 CFR Part 82 (New Restrictions on Lobbying)
7. 34 CFR Part 84 (Government wide Requirements for Drug-Free Workplace (Financial Assistance))

PARTS OF EDGAR (CONT.)

8. 34 CFR Part 86 (Drug and Alcohol Abuse Prevention)
9. 34 CFR Part 97 (Protection of Human Subjects)
10. 34 CFR Part 98 (Student Rights in Research, Experimental Programs, and Testing)
11. 34 CFR Part 99 (Family Educational Rights and Privacy)
12. 2 CFR Part 180 (OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)), as adopted at 2 CFR Part 3485
13. 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), as adopted at 2 CFR Part 3474





- **What if the grantee fails to comply with the applicable federal requirements?**
 - **Consequences- Will I go to jail?**

- Congress may fix the terms on which it disburses grants.
- A federal grant “is much in the nature of a contract,” in return for the federal funds the grantee agrees to comply with the federally imposed conditions.

Pennhurst vs. Halderman, 451 U.S. 1 (1981)



- But New Jersey and Pennsylvania argued to the Supreme Court that USDE cannot recover misspent grant funds

Bell v. New Jersey and Pennsylvania,
461 U.S. 773 (1983)



- Federal auditors determined both states misspent Title I funds.



- Supreme Court → grantees misusing federal funds incur a debt to the Federal Government (citing Section 415 of GEPA) grants → must be adjusted on account of overpayments.



- Citing Pennhurst grantee chose to participate in the program, and as a condition of receiving the grant, gave an assurance that it would abide by the conditions of the grant.



BASIC HIERARCHY OF SAFE HARBORS

1. Program Statute (e.g. Perkins, ESSA, HEA)
2. GEPA
3. Program Regulations (34 CFR 81.5(b))
4. EDGAR
5. Final Agency Audit Decisions
6. 90 Day Letter (34 CFR 81.33)
7. Non-Regulatory Guidance and Dear Colleague Letters (?)
8. Memoranda, Emails, Telephone Calls

WHAT IS PART 200 (UGG)

■ **Title 2**

- Part 200 – Uniform Administrative Requirements/ Cost Principles/Audit Rules
 - All Federal Agencies Have Exceptions and Have Adopted Part 200.
 - USDE has EDGAR (Education Department General Administrative Regulations)
 - Part 3473 USDE Exceptions

PRIOR RULES (INCORPORATED INTO THE NEW UGG)

- **A-21 – Cost Rules – Rules – IHEs**
- **A-87 – Cost Rules – State / Local Gov't**
- **A-122 – Cost Rules – Nonprofit**
- **A-102 – Administrative Rules State / Local Gov't**
- **A-110 – Administrative Rules IHEs**
- **A-133 – Audit Rules**

WHAT NOT TO DO!



RECENT OIG FINDINGS SEMIANNUAL REPORTS NO.70 (OCT 2014 – MARCH 2015)

Nebraska

- **The Comptroller had unlimited access to accounts that he used to write checks to himself for cash, receive duplicate compensation for work and purchased more than 200 gift cards and other items for personal use. He also created false account entries in the school's accounting system to cover up his crimes.**
- **From 2004 through 2010, Former Comptroller and Director of Finance embezzled some \$50,000.**

RECENT OIG FINDINGS (CONT.)

Wisconsin

- Over a 13-year period, the Administrative Assistant created bogus purchase orders to use school district funds for vacations and household items.
- The woman was sentenced to serve a year and a day in prison and 2 years of supervised release, and she was ordered to pay more than \$310,000 in restitution.

RECENT OIG FINDINGS (CONT.)

Connecticut

- Former university student used an unauthorized password to log into the school database and changed students' financial aid records, attempting to transfer more than \$73,000 in Federal student aid to himself and his friends.
 - Sentenced to 7 years in prison, 3 years probation.



EFFECTIVE DATES

- **December 26, 2014** – Direct Grants from ED
- **July 1, 2015** – State Administered Programs
- **July 1, 2017** – Procurement Rules (Two Year Grace Period, but specific requirements must be met.)
Sec. 200.110

Indirect Cost Rates When Due For Renegotiation



PART 200 UNIFORM ADMINISTRATIVE REQ, COST PRINCIPLES, AND AUDITS FOR FEDERAL AWARDS

Formerly know as the “Uniform Grants Guidance”, the
“Omni Circular” and the “Super Circular”

FINANCIAL MANAGEMENT CONTROLS



1) IDENTIFICATION OF AWARDS

200.302(B)(1)

NEW: All federal “awards” received and expended

- The name of the federal “program”
- Identification # of award
 - CFDA Title and Number
 - Federal Award I.D. #
 - Fiscal Year of Award
 - Federal Agency
 - Pass-Through (If S/A)



2) FINANCIAL REPORTING

200.302(B)(2)

- Accurate, current, complete disclosure of financial results of each award in accordance with 200.327 and 200.328.
- **NEW: 200.327** – Federal awarding agency can only collect OMB approved data elements, **no less than annually, no more than quarterly**
- **NEW: 200.328** – Non federal entity must submit performance reports at intervals required by federal agency or pass through.
 - Annual performance reports due 90 days after reporting period;
Quarterly performance reports due 30 days after reporting period

3) ACCOUNTING RECORDS 200.302(B)(3)

Source Documentation Must Be Kept On:

1. Federal Awards
 2. Authorizations
 3. Obligations
 4. Unobligated balances
 5. Assets
 6. Expenditures (NEW)
 7. Income
 8. Interest (NEW)
- (Eliminated liabilities and outlays)***

4) INTERNAL CONTROLS

200.302(B)(4)

Essentially same as prior 80.20(b)(3):

- Effective control over and accountability for:
 1. All funds
 2. Property
 3. Other assets
- Must adequately safeguard all assets
- Use assets solely for authorized purpose

THE DEFINITION OF INTERNAL CONTROLS

200.61

- *Internal controls* means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
 - a. Effectiveness and efficiency of operations;
 - b. Reliability of reporting for internal and external use;
and
 - c. Compliance with applicable laws and regulations.

REQUIRED CERTIFICATION 200.415

- **NEW:** An official authorized to legally bind the non-federal entity must certify on annual and final fiscal reports or vouchers requesting payment:
 - “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.”

CONTROL ENVIRONMENT EXAMPLES

- Well-written policies and procedures manuals
 - Addressing employee responsibilities, limits to authority, performance standards, hiring practices, whistleblower policies, conflict of interests, etc.
- Organizational chart (clear lines of authority and responsibility)
- Clear job descriptions
- Adequate training programs and performance evaluations.

RISK ASSESSMENT PRINCIPLES

1. Clear objectives to enable the identification and assessment of risks;
2. Identify risks to achievement of objectives across the entity and analyze risks as a basis for determining how the risks should be managed;
3. Consider the potential for fraud; and
4. Identify and assess changes that could significantly impact the system.

RISK AREAS (EXAMPLES)

Risks are not stagnate; they increase and change as laws and operational environments change.

Examples:

- ▶ New personnel
- ▶ Experienced personnel
- ▶ Lack of personnel
- ▶ Reorganizations
- ▶ Cost Reduction Strategies

More Examples:

- ▶ Change in Laws and Regulations
- ▶ New Technology
- ▶ New Grants
- ▶ Competition
- ▶ Rapid growth

TYPES OF CONTROL ACTIVITIES

- **Preventive Controls:** Prevents the occurrence of a negative event in a proactive manner
 - Approval for purchase > \$5,000
 - Passwords
 - Petty cash held in lockbox
 - Security and surveillance systems
 - Pre-numbered checks
- **Detective Controls:** Identify undesirable "occurrences" after the fact.
 - Supervisor review & approval
 - Report run showing user activity
 - Reconcile petty cash
 - Physical inventory count
 - Review missing/voided checks

CONTROL ACTIVITY EXAMPLES

- Segregating Key Responsibilities
- Restricting Access to Systems and Records (Authorizations / Passwords)
- Implementing Clear Written Policies in Key Areas
- Maintaining Physical Control Over Valuable Assets (Security)
- Maintaining Appropriate Documentation (Approvals, Record Retention)
- Accurate and Timely Recording of Information
 - Check for accounting of transactions in numerical sequence

5) BUDGET CONTROL

200.302(5)

- Same as current rule 80.20(b)(4)
- Comparison of expenditures with budget amounts for each award

6) WRITTEN CASH MANAGEMENT PROCEDURES 200.302(6)

- **NEW:** Written Procedures to implement the requirements of 200.305

PAYMENT

200.305 (A) AND (B)

- For states, payments are governed by Treasury – State CMIA agreements 31 CFR Part 205
 - No Change
- For all other non federal entities, payments must minimize time elapsing between draw from G-5 and disbursement (not obligation)

PAYMENT (CONT.)

200.305(B)(1)-(4)

- Written procedures must describe whether non-federal entity uses:
 - 1) Advance Payments (preferred)
 - Limited to minimum amounts needed to meet immediate cash needs
 - 2) Reimbursement
 - Pass through must make payment within 30 calendar days after receipt of the billing
 - 3) Working Capital Advance
 - The pass through determines that the nonfederal entity lacks sufficient working capital. Allows advance payment to cover estimated disbursement needs for initial period

PAYMENT (CONT.)

200.305(B)(7)-(8)

- Advances must be maintained in insured accounts
- Pass through cannot require separate depository accounts
- **NEW:** Accounts must be interest bearing unless:
 1. Aggregate federal awards under \$120,000
 2. Account not expected to earn in excess of \$500 per year
 3. Bank require minimum balance so high, that such account not feasible
 4. A foreign gov't or banking system prohibits or precludes interest bearing accounts.

PAYMENT (CONT.)

200.305(B)(9)

- **NEW:** Interest amounts up to \$500 may be retained by non federal entity for administrative purposes
 - Was \$100 for State and local Gov'ts
 - Was \$250 for IHEs and Non-profits.

- **NEW:** Interest earned must be remitted annually to HHS Payment Management System.

7) WRITTEN ALLOWABILITY PROCEDURES 200.302(B)(7)

- **NEW:** Written procedures for determining allowability of costs in accordance with Subpart E – Cost Principles
 - Procedures can not simply restate the Uniform Guidance Subpart E
 - Should explain the process used throughout the grant development and budget process
 - Training tool and guide for employees

PROGRAM INCOME

200.307

- Non-Federal entities are encouraged to earn income to defray program costs where appropriate.
 - Costs of generating program income may only be deducted if:
 - Authorized by federal regulations or the Federal award;
 - Costs are incidental and not charged to the Federal award.
 - Property from the sale of real property or equipment is not program income – apply post award property rules.
- Program Income Must Be Deducted from Total Allowable Costs (except for IHEs and Research Non-profits)
 - With prior approval may add to Federal award.

SUBPART E – COST PRINCIPLES



FACTORS AFFECTING ALLOWABILITY OF COSTS

200.403

All Costs Must Be:

1. Necessary, Reasonable and Allocable
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. *Net of applicable credits (moved to 200.406)*
8. Adequately documented

REASONABLE 200.404

- **Consideration must be given to:**
 - a. Whether cost is a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award;
 - b. The restraints or requirements imposed such as:
 - Arms length bargaining (hint: procurement processes);
 - Federal, state and local laws; and
 - Terms of the grant award.
 - c. Market Prices for comparable goods or services in the geographical area;
 - d. Whether the individuals acted with prudence under the circumstances considering their responsibilities; and
 - e. No significant deviation from established prices.

ALLOCABLE 200.405

- A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.
 - Incurred specifically for the award;
 - Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
 - Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.
- Can only charge in proportion to the value received by the program
 - Example: Agency purchases a computer to use 50% on the Federal grant program and 50% on a state program – can only charge half the cost to the grant.

FACTORS AFFECTING ALLOWABILITY OF COSTS (CONT.) 200.403

- Be consistent with policies and procedures that apply uniformly to both federally- financed and other activities of the non-Federal entity.
- Be accorded consistent treatment
 - Can not charge cost as both direct and indirect
- Be determined in accordance with GAAP
- Not be included as a cost or used to meet cost sharing or matching

COST SHARING OR MATCHING

200.306

Cost sharing or matching funds must meet the following criteria:

- Are verifiable from the non-Federal entity's records;
 - Are not included as contributions for any other Federal award;
 - Are necessary and reasonable for accomplishment of project or program objectives;
 - Are allowable under Subpart E;
 - Are not paid by Federal government under another award, except when authorized;
 - Are provided in the approved budget when required; and
 - Conform to other provisions of Part 200.
-
- Unrecovered indirect costs may be included only with prior approval of the Federal awarding agency.
 - Tuition and Fees may not be used toward matching, cost sharing or maintenance of effort 76.534

FACTORS AFFECTING ALLOWABILITY OF COSTS (CONT.)

200.403(G)

Adequately Documented

- Amount of funds under grant
- How the funds are used
- Total cost of the project
- Share of costs provided by other sources
- Other records to facilitate an effective audit (see 34 CFR 76.730)
- Records that show compliance and performance(see 34 CFR 76.731)



METHODS FOR COLLECTION, TRANSMISSION AND STORAGE OF INFORMATION

200.335

- **NEW:** When original records are electronic and cannot be altered, there is no need to create and retain paper copies.
- When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
 - Are subject to periodic quality control reviews,
 - Provide reasonable safeguards against alteration; and
 - Remain readable.

APPLICABLE CREDITS

200.406

- Those receipts or reduction-of-expenditure type transaction that offset or reduce expense items – must be credited to the Federal award as either cost reduction or cash refund, as appropriate.
 - Examples: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments

PRIOR WRITTEN APPROVAL 200.407

- **NEW:** In order to avoid subsequent disallowance:
 - Non-Federal entity may seek prior written approval of cognizant agency (for indirect cost rate) or Federal awarding agency in advance of the incurrence of special or unusual costs

DIRECT V. INDIRECT COSTS 200.413(C)

- **NEW:** Salaries of administrative and clerical staff should be treated as “indirect” unless all of following are met:
 1. Such services are integral to the activity
 2. Individuals can be specifically identified with the activity
 3. Such costs are explicitly included in the budget
 4. Costs not also recovered as indirect

COLLECTION OF UNALLOWABLE COSTS

200.410

- **NEW:** Payments made for costs determined to be unallowable by either the Federal awarding agency or pass-through must be refunded (including interest) to the Federal government in accordance with instructions from the Federal agency that determined the costs are unallowable.



SELECTED ITEMS OF COST

There are 55 specific items of cost!

Listed on page 94.

Starts at 200.420

SELECTED ITEMS OF COST EXAMPLES

- **Advertising/PR 200.421**
 - Allowable for programmatic purposes including:
 - Recruitment
 - Procurement of goods
 - Disposal of materials
 - Program outreach
 - Public relations (in limited circumstances)

SELECTED ITEMS OF COST EXAMPLES (CONT.)

- **Alcohol 200.423**
 - Not allowable
- **Collections of Improper Payments 200.428**
 - The costs incurred by the non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate.



SELECTED ITEMS OF COST EXAMPLES (CONT.)

■ **Conferences 200.432**

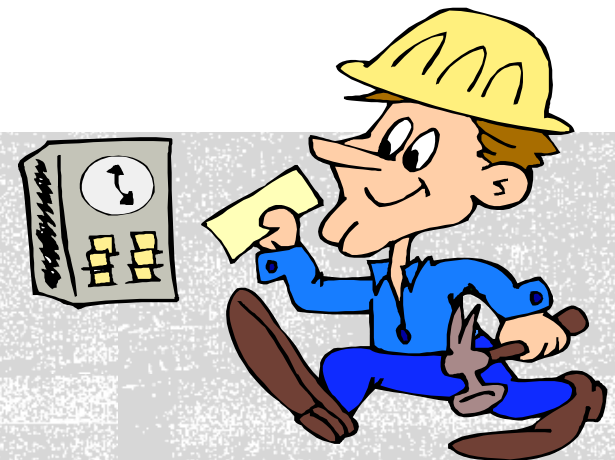
- **Prior Rule:** Generally allowable
- **Includes Meals / Conferences / Travel and Family Friendly Policies**
- **Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award**
- **NEW:** Costs related to identifying, but not providing, locally available dependent-care resources
- **Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner than minimizes costs to federal award**

SELECTED ITEMS OF COST (CONT.)

- **Travel Costs 200.474 (Changed)**
 - Travel costs may be charged on actual, per diem, or mileage basis
 - **NEW:** Travel charges must be consistent with entity's written travel reimbursement policies
 - **NEW:** Allows costs for “above and beyond regular dependent care”
 - Grantee must retain documentation that participation of individual in conference is necessary for the project
 - **NEW:** Travel costs must be reasonable and consistent with written travel policy / or follow GSA 48 CFR 31.205-46(a)



TIME AND EFFORT DOCUMENTATION



DOCUMENTATION FOR PERSONNEL EXPENSES 200.430(I)

- **NEW:** Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed.
- How staff demonstrate allocability
 - If employee paid with federal funds, then must show that the employee worked on that specific federal program cost objective 200.403(a)

WHO MUST PARTICIPATE?

200.430(I)(1) AND (I)(4)

- Must be maintained for all employees whose salaries are:
 - Paid in whole or in part with federal funds
 - Used to meet a match/cost share requirement
 - NOT contractors



OMB CIRCULAR A-21 STANDARDS

Plan Confirmation

- Budgeted allocations for professional/professorial staff
- Updated to reflect any significant changes in actual work

Multiple Confirmation Records

- Variety of records kept in combination at least monthly.

After-the-Fact Activity Reports

- Professional/Professorial staff keep records every six months
- All other employees keep monthly records
- Signed by employee, principal investigator, or responsible official using suitable means of verification.
- Must reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs

DOCUMENTATION FOR PERSONNEL EXPENSES (CONT.) 200.430(I)(1)

NEW: These records **MUST:**

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and properly allocated;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
 - Not to exceed 100%

DOCUMENTATION FOR PERSONNEL EXPENSES (CONT.) 200.430(I)(1)

4. Encompass all activities (federal and non-federal);
5. Comply with established accounting polices and practices; and
6. Support distribution among specific activities or cost objectives.

COST OBJECTIVES

200.28

Program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc.

COST OBJECTIVES (CONT.)

200.430(I)(1)(VII)

- **More than one Federal award.**
- **A Federal award and a non-Federal award.**
- **An indirect cost activity and a direct cost activity.**
- **Two or more indirect activities that are allocated using different allocation bases.**
- **An unallowable activity and a direct or indirect cost activity**

USE OF BUDGET ESTIMATES

200.430(T)(1)(VIII)

- Budget estimates alone do not qualify as support for charges to Federal awards May be used for interim accounting purposes if:
 - Produces reasonable approximations
 - Significant changes to the corresponding work activity are identified in a timely manner
 - Internal controls in place to review after-the-fact interim charges based on budget estimates

PERCENTAGES

200.430(I)(1)(IX)

- **NEW:** Because practices vary as to the activity constituting a full workload, records may reflect categories of activities expressed as a percentage distribution of total activities.

COMPLIANCE

200.430(I)(2)

- **NEW:** For records which meet the standards, the non-federal entity will not be required to provide additional support or documentation for the work performed.
- DOL regulations for Fair Labor Standards Act must still be met (i.e. charges must be supported by records indicating the total number of hours worked each day).

NONCOMPLIANCE

200.430(I)(8)

- **For a non-Federal entity where the records do not meet these standards:**
 - **USDE may require personnel activity reports (PARs), including prescribed certifications or equivalent documentation that support the records as required in this section.**
 - **PARs are not defined!!**

RECONCILIATION

200.430(I)(1)(VIII)(C)

- **NEW:** All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

SUBSTITUTE SYSTEMS

200.430(T)(5)

- States, local governments and Indian tribes encouraged to adopt “substitute systems” if approved by cognizant agency for indirect cost.
 - No longer applies to nonprofits.
- Still acceptable to allocate sampled employees’ supervisors, clerical and support staffs, based on the result of the sampled employees.

ALTERNATIVE PROPOSALS

200.430(I)(6)

- **NEW:** Cognizant agencies for indirect costs are encouraged to accept alternative proposals based on outcomes and milestones for program performance.
- These plans are acceptable as alternatives to the Part 200 standards.

BLENDED FUNDING

200.430(I)(7)

- **A non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-based metrics, if approved.**
- **Must submit a request for a waiver that includes certain information, including the method of charging costs.**

PROCUREMENT



GENERAL PROCUREMENT STANDARDS

200.318(A)

- All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

CONTRACT ADMINISTRATION 200.318(B)

- Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract

CONFLICT OF INTEREST

200.318(C)(1)

- **Must maintain written standard of conduct, including conflict of interest policy.**
- **A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:**
 - **Employee, officer or agent**
 - **Any member of that person's immediate family**
 - **That person's partner**
 - **An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award**

CONFLICT OF INTEREST (CONT.)

200.318(C)(1)

- Must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors/ subcontractors.
- However, may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- Standards of conduct must include disciplinary actions applies for violations.



CONFLICT OF INTEREST (CONT.)

200.318(C)(2)

- **If the non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government the entity must also maintain written standards of conduct covering organization conflicts of interest**

CONFLICT OF INTEREST (CONT.)

200.112

- The Federal awarding agency must establish conflict of interest policies for Federal awards.
- **NEW:** All non federal entities must establish conflict of interest policies, and disclose in writing any potential conflict to federal awarding agency in accordance with applicable Federal awarding agency policy.

MANDATORY DISCLOSURES

200.113

- **NEW:** Must disclose in writing, in a timely manner:
 - All violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
 - Failure to make disclosures can result in remedies in 200.338 (remedies for noncompliance) including suspension and debarment.

VENDOR SELECTION PROCESS

200.318(H)

- **Must award contracts only to responsible contractors possessing the ability to perform successfully:**
 - Contractor integrity
 - Compliance with public policy
 - Record of past performance
 - Financial and technical resources

COMPETITION

200.319(A)

- All procurement transactions must be conducted with full and open competition.
 - Must have protest procedures to handle disputes
- To eliminate unfair advantage, contractors that develop or draft specifications, requirements, statement of work, and invitations for bids or RFPs must be excluded from competing for such procurements.

COMPETITION (CONT.)

200.319(A)

■ **NEW:** Situations that restrict competition:

1. Unreasonable requirements on firms to qualify to do business
2. Requiring unnecessary experience or excessive bonding
3. Noncompetitive pricing practices
4. Noncompetitive awards to consultants on retainer
5. Organizational conflicts of interest (see 200.318(c)(2))
6. Specifying a brand name instead of allowing “an equal”
7. Any arbitrary action in the procurement process

COMPETITION (CONT.)

200.319(B)

- **NEW:** Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
- Does not preempt state licensing laws.
- Exception: architectural and engineering services (if provides appropriate number of qualified firms).

COMPETITION (CONT.)

200.319(C)

- **Written procedures for procurement must ensure all solicitations:**
 - **Incorporate a clear and accurate description of the technical requirements for materials, product or service to be procured; and**
 - **“Brand name or equivalent” may be used as needed, but the specific features of the named brand which must be met by the offers must be clearly states**
 - **Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.**

METHODS OF PROCUREMENT

200.320

- **NEW:** Methods of procurement:
 - Micro-purchase
 - Small purchase procedures
 - Competitive sealed bids
 - Competitive proposals
 - Noncompetitive proposals

MICRO-PURCHASE

300.320(a)

- **NEW:** Acquisition of supplies and services under \$3,000 or less.
 - \$2,000 for construction subject to the Davis-Bacon Act
- May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- To the extent practicable must distribute micro-purchases equitably among qualified suppliers.

SMALL PURCHASE PROCEDURES

300.320(B)

- **NEW:** Good or service that costs \$150,000 or less
 - (**NEW:** Simplified Acquisition Threshold was raised under 200.88)
 - Organization may set lower threshold
- Must obtain price or rate quotes from an adequate number of qualified sources
- “Relatively simply and informal”

SEALED BIDS

300.320(C)

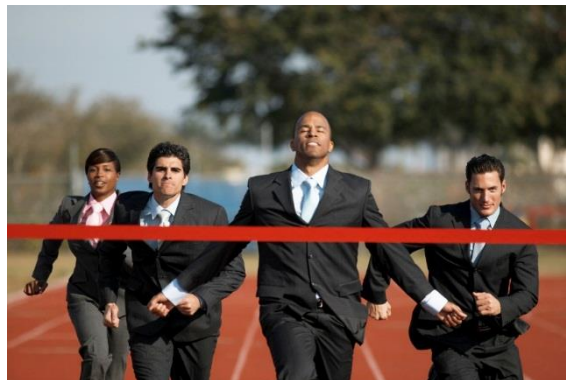


- **NEW:** Over \$150,000
 - Organization may set lower threshold
- Bids are publically solicited.
- Appropriate when:
 - A complete, adequate and realistic specification or description of good or service is available;
 - Two or more responsible bidders are willing and able to compete effectively for the business
 - Selection of vendor can be made principally based on price and it's a firm fixed price contract.

COMPETITIVE PROPOSALS

300.320(D)

- **NEW:** Over \$150,000
 - Organization may set lower threshold
- Award contract to responsible vendor whose proposal is most advantageous to the program, considering price and other factors.
- Generally used when sealed bid is not appropriate.



NONCOMPETITIVE PROPOSALS

200.320(F)

- **NEW:** Appropriate only when:
 - The item is only available from a single source;
 - There is a public emergency that will not permit delay;
 - The Federal awarding agency or pass-through expressly authorizes noncompetitive proposals in response to a written request from non-Federal entity; or
 - After soliciting a number of sources, competition is determined inadequate.



CONTRACT COST AND PRICE

200.323

- **NEW:** Must perform a cost or price analysis in connection with every procurement action over \$150,000, including contract modifications
- Independent estimate before receiving bids or proposals.
 - Cost analysis generally means evaluating the separate cost elements that make up the total price (including profit)
 - Price analysis generally means evaluating the total price



SUSPENSION AND DEBARMENT APPENDIX II(H)

- **Cannot contract with vendor who has been suspended or debarred**
 - **Excluded Parties List System in the System for Award Management (SAM)**
 - **2 CFR Part 180 (OMB Debarment Suspension Rules) and 2 CFR 3485 (USDE Rules)**

SUSPENSION AND DEBARMENT

2 CFR 180.300

- For contracts over \$25,000 you must verify that the person with whom you intend to do business is not excluded or disqualified.
- This MUST be done by either:
 - a. Checking SAM; or
 - b. Collecting a certification from that person; or
 - c. Adding a clause or condition to the covered transaction with that person.



PROPERTY MANAGEMENT

EQUIPMENT

200.33

- **Equipment: tangible, nonexpendible, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.**
- **Grantee may also use its own definition of equipment as long as the definition would at least include all equipment defined above.**

SUPPLIES

200.94

- All tangible personal property other than equipment
- **NEW:** Computing devices are supplies is less than \$5,000
- **NEW:** Computing devices 200.20
 - Machines used to acquire, store, analyze, process, public data and other information electronically
 - Includes accessories for printing, transmitting and receiving or storing electronic information

USE OF EQUIPMENT

200.313(C)(1) AND (2)

- 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.
- When no longer needed, may be used in other activities with the following priority:
 1. Projects supported by Federal awarding agency
 2. Project funded by other Federal agencies
- When used it may be shared (according to the above priorities) provided such use will not interfere with work on the original projects/programs.
- Exception – Private Schools 76.661 (page 61)

EQUIPMENT PROCEDURES

200.313 (D)

Procedures for managing equipment must meet the following requirements:

- 1. Property records**
 - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
- 2. Physical inventory at least every two years**
- 3. Control system to prevent loss, damage, theft**
 - All incident must be investigated
- 4. Adequate maintenance procedures**
- 5. If authorized or required to sell property, proper sales procedures to ensure highest possible return.**

DISPOSITION OF EQUIPMENT 200.313(E)

- When property is no longer needed in any current or previously Federally-funded supported activity, must follow disposition rules:
 - **NEW:** Nonfederal entity must request disposition instructions from the federal awarding agency if required by the terms of the grant.
 - Otherwise, may be retained, sold or otherwise disposed as follows:
 - Over \$5,000 – pay federal share
 - If equipment is sold: Federal awarding agency may permit non-Federal entity to deduct and retain \$500 or 10% of the proceeds for selling and handling instructions.
 - Under \$5,000 – no accountability (still must formally dispose)

DISPOSITION OF SUPPLIES

200.314

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, must compensate the federal government for its share.



AUDIT REQUIREMENTS



AUDIT REQUIREMENTS

200.501

- ❑ **NEW:** Threshold increased to \$750,000
- ❑ The federal agency, OIG, or GAO may arrange for audits in addition to single audit

FEDERAL AGENCY RESPONSIBILITIES

200.513

- ❑ **NEW:** The federal awarding agency must use cooperative audit resolution to improve federal program outcomes
- ❑ Cooperative Audit Resolution: means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust and developing an understanding between the Federal agency and non-Federal entity 200.25.



AUDIT FINDINGS

200.516

- ❑ The auditor must report (for major programs):
 - ❑ Significant deficiencies and material weaknesses in internal controls
 - ❑ Significant instances of abuse
 - ❑ Material noncompliance
 - ❑ Known questioned costs > \$25,000
- ❑ Auditor will not normally find questioned costs for a program that is not audited as a “major program”
 - ❑ **NEW:** But if auditor becomes aware of questioned costs > \$25,000 for non-major program, must report



QUESTIONS?



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