2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

HIGHLIGHTED CHANGES

NOAA GRANTS MANAGEMENT DIVISION
JANUARY 2015
The Uniform Guidance consolidated 8 policies into 1.

Its contents include:

- **Subpart A**—Acronyms and Definitions
- **Subpart B**—General Provisions
- **Subpart C**—Pre-Federal Award Requirements and Contents of Federal Awards
- **Subpart D**—Post Federal Award Requirements
- **Subpart E**—Cost Principles
- **Subpart F**—Audit Requirements
Goals

Increase performance, outcomes, oversight, accountability

Increase efficient use of resources and transparency

Reduce waste, fraud, abuse

Reduce duplication and conflicting guidance
Timeline

Uniform Guidance Issued by OMB on 12/26/2013.

Federal agencies submit draft implementing regulations to OMB by 6/26/2014.

Published in the Federal Register 12/19/2014.

Implementation by 12/26/2014. Effective for new awards or some funding increments on or after this date.

Audit Requirements will be effective for fiscal years beginning on or after 12/26/2014.

Published in the Federal Register 12/19/2014.
Who Does This Apply To?

- The 2 CFR Part 200 applies to:
  - New awards on or after 12/26/2014
  - Funding increments on or after 12/26/2014
Revised CD450 & CD451

**Revised CD450**

U.S. DEPARTMENT OF COMMERCE

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**Revised CD451**

U.S. DEPARTMENT OF COMMERCE

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**Reasons for Amendment**

This Amendment Document (Form CD451) signed by the Grants Officer constitutes an Amendment of the above-referenced Award, which may include an obligation of Federal funding. By signing this Form CD451, the Recipient agrees to comply with the Amendment provisions described below and attached, as well as previous provisions incorporated into the Award. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw the Amendment offer and de-obligate the funds.

- SPECIAL AWARD CONDITION(S)
- LINE ITEM BUDGET
- OTHER(S):
§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.

§200.113 Mandatory Disclosures
- Non-Federal entities and applicants 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.
New language has been added to the final guidance to allow for “fixed amount” awards that rely more on performance than compliance for accountability. New coverage on fixed amount awards:

- Payments are based on meeting specific requirements of the award
- Accountability is based on performance and results
- Award amount is negotiated using cost principles as a guide
- No governmental review of the actual costs incurred
- Cannot be used in programs which require mandatory cost share (does not include salary costs above Federal awarding agency’s cap)
- Changes in areas such as principal investigator, project partner, or scope must receive prior awarding agency written approval of Federal awarding agency or pass-through entity
§200.202 Requirement to Provide Public Notice of Federal Financial Assistance Programs

- Provides a standard format for announcements of intended priorities and funding opportunities, which includes requirement to state all criteria used in evaluation of applications and how they will be used.

- This section includes the existing requirement for Federal agencies to include in the Catalog of Federal Domestic Assistance whether or not the particular program is subject to Single Audit Requirements.
§200.203 Notices of Funding Opportunities

- Specifies a standard set of six data elements to be provided in all Federal notices of funding opportunities (name of federal awarding agency, opportunity title, announcement type, opportunity number, CFDA #, key dates). Identifies the full text that must be included in funding opportunities (Appendix I).

- The Federal awarding agency must generally make all funding opportunities available for application for **at least 60 calendar days**. The Federal awarding agency may make a determination to have a less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances require as determined by the Federal awarding agency head or delegate.
§200.204-200.205 Federal Awarding Agency Review

200.204 Federal Awarding Agency Review of Merit of Proposals

For competitive grants and cooperative agreements, unless prohibited by Federal statute, the Federal awarding agency must design and execute a merit review process for applications. Process must be described or incorporated by reference in the funding opportunity.

200.205 Federal Awarding Agency Review of Risk Posed by Applicants

In addition to use of the OMB-designated repositories of governmentwide eligibility information, Federal awarding agencies must have a framework for evaluating the risks posed by applicants prior to receipt of a federal award.

- Items that may be considered include – financial stability, quality of management systems, history of performance, audit reports and findings, applicant’s ability to implement imposed requirements, and debarment, suspension or otherwise excluded from participation in Federal award.

- Special conditions that correspond to the degree of risk may be applied, if appropriate (See 200.207, Special Conditions.)

- Federal awarding agencies must continue to comply with the guidelines on governmentwide suspension and debarment and must require non-federal entities to comply with these provisions.
§200.206 Standard Application Requirements

- Requires Federal awarding agencies to consistently use OMB-approved standard information collections in their management of Federal awards.

- Requires Federal agencies not to add additional application requirements beyond OMB approved data elements (through Paperwork Reduction Act process).

- Circular guidance does not list specific forms for applications, reporting, and requests; entities should continue to make use of standard approved collections (forms) wherever possible to encourage broader goals of data standardization across government.

- Currently approved OMB Grants Management Forms (and formats) are available on the OMB website at: http://www.whitehouse.gov/omb/grants_standard_report_forms/
§200.207 Special Conditions

- Combined with §200.204 & 200.205, this requires Federal awarding agencies to evaluate the merit and risks associated with a potential Federal award and to impose specific conditions where necessary to mitigate potential risks of waste, fraud, and abuse, before the money is spent.

- Based on 200.205, the Federal awarding agency or pass-through entity may impose additional specific award conditions as deemed necessary such as additional monitoring, reporting, and/or prior approvals
  - Notification must be made as to reason why, nature of action, time to complete, method for requesting reconsideration
  - Special conditions must be removed once corrective action is taken
§200.208 Certifications and Representations

- Unless prohibited by Federal statutes or regulations, each Federal awarding agency or pass-through entity is authorized to require the non-Federal entity to submit certifications and representations required by Federal statutes, or regulations on an annual basis.

- Submission may be required more frequently if the non-Federal entity fails to meet a requirement of a Federal award.
§200.210 Information Contained in Federal Awards

Provides a standard set of 15 data elements to be provided in all Federal awards.

- Recipient name (must match DUNS)
- Recipient DUNS
- Unique Federal Award ID Number (FAIN)
- Federal award date
- Period of Performance start and end date
- Amount of Federal funds obligated by this action
- Total amount of Federal funds obligated
- Total amount of Federal award
- Budget approved by Federal awarding agency
- Total approved cost sharing or matching
- Federal award project description (FFATA)
- Name of Federal awarding agency and contact info of awarding official
- CFDA number and name
- Identification of R&D
- Indirect cost rate for the Federal award (including if de minimis rate is charged)
§200.210 Information Contained in Federal Awards (cont.)

- General Terms and Conditions must be incorporated
  - Administrative requirements
  - National policy requirements
  - Applicable set of general T&C (provide full text if requested)
  - Agency must maintain archive of previous T&C
  - Additional requirements to general T&C
  - Requires Federal awarding agencies to include an indication of the timing and scope of expected performance as related to the outcomes intended to be achieved
  - Any other required information
§200.211 Public Access To Federal Award Information

- Federal awarding agency must announce all Federal awards publicly and publish the required information on a publicly available OMB-designated governmentwide website (current example: www.USAspending.gov)

- Nothing in this section to be construed as requiring the publication of information otherwise exempt under the Freedom of Information Action (FOIA) or controlled unclassified information pursuant to EO13556
Provides more robust guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones.
§200.303 Internal Controls

- Requires non-Federal entities to take reasonable measures to safeguard protected personally identifiable information (PII) as well as any information that the Federal awarding agency or pass-through entity designates as sensitive.
Clarifies meaning of project costs and extends to non-Federal entities previously covered by OMB Circular A-102 the existing flexibility in OMB Circular A-110 to pay interest earned on Federal funds annually to DHHS, rather than “promptly” to each Federal awarding agency.

Also from A-102, .24 Matching or cost sharing, (b)(2) General Revenue sharing is added, as is (7)(ii) on third party in-kind contributions.

Updated amounts for interest-bearing accounts from $250 to $500 as the amount the best interest-bearing account might be expected to earn and the amount of interest that could be retained by the recipient for administrative expenses.
§200.306 Cost Sharing Or Matching

- Clarifies policies on voluntary committed cost sharing to ensure that such cost sharing is only solicited for research proposals when required by regulation and transparent in the notice of funding opportunity.

- Notes that voluntary committed cost sharing is prohibited for Federal research proposals except where otherwise required by statute.

- Voluntary match cannot be used as a factor during the merit review of applications or proposals.

- Only the mandatory cost sharing or cost sharing included on the project budget must be included in the organized research base for computing the indirect cost rate or reflected in the allocation of indirect costs (see http://www.whitehouse.gov/omb/memoranda_m01-06)
§200.317-326 Procurement Standards

- Requires non-Federal entity’s procurement procedures to avoid duplicative purchases and encourage non-Federal entities to enter into inter-entity agreements for shared goods and services.

- Raises the threshold for small purchase procedures to $150,000 to be consistent with the simplified acquisition threshold in the Federal Acquisition Regulation (FAR).

- Where there is a conflict between state or tribal law and this guidance as implemented in regulation with respect to the administration of a Federal award, this Federal guidance prevails.
The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site). (200.328)

Updates reporting requirements for Real Property 200.333 Record Retention and Access (c).

Incorporates language from the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information. Makes clear that electronic, open, machine readable information is preferable to paper, as long as there are appropriate and reasonable internal controls in place to safeguard against any inappropriate alteration of records.
§200.331 Requirements For Pass-Through Entities

- Requires pass-through entities to honor the indirect cost rates negotiated at the Federal level, negotiate a rate in accordance with Federal guidelines, or provide the minimum flat rate.

- Requirements will further reduce potential barriers to receiving and effectively implementing federal financial assistance.
§200.343-345 Closeout & Collection

- **200.343 Closeout**: Language modified to extend the closeout period for an award from 180 days to one year, in addition to the clarifying language that non-Federal entities have 90 days from the end date of the period of performance to submit all final reports, and also to clarify that the one-year period begins once final reports have been received from the non-Federal entity.

- **200.344 Post-Closeout Adjustments and Continuing Responsibilities**: Language added to limit the period when Federal agencies may disallow costs to within the three-year record retention period.

- **200.345 Collection of Amounts Due**: Collection of amounts due "reasonable period" specified as 90 days.
§200.400 & §200.401

- §200.400 Policy Guide
  - Expressly prohibits the non-Federal entity from earning or keeping profit resulting from Federal financial assistance unless expressly authorized by the terms and conditions of the Federal award.

- §200.401 Application
  - Includes additional language to clarify that when a non-Federal entity has a Cost Accounting Standards (CAS) covered contract subject to the requirements of 48 CFR 995, those requirements do not automatically extend beyond the covered contract to other awards, though the non-Federal entity is required to maintain consistent application of cost accounting standards.
§200.407 Prior Written Approval

- A list of instances of sections that discuss conditions under which prior approval is required is included to ensure that these requirements are transparent and to reduce burden by providing both Federal agencies and non-Federal entities a complete listing of where all these types of requirements may be found.

- Most sections had very little, if any, changes to the language, with the following exceptions:
  - 200.438 Entertainment Costs – clarifies that any exceptions require a programmatic purpose as well as written prior approval from the Federal awarding agency
  - 200.440 Exchange Rates – is a new section with new language being incorporated into the Federal Register
  - 200.442 Fund Raising and Investments Management Costs – Fund raising costs for the purposes of meeting the Federal program objectives are now allowable with prior written approval.
  - 200.445 Goods or Services for Personal Use – expands provision allowing equipment to be replaced as trade-in to all. Certain costs are now allowable with prior written approval from the Federal awarding agency.
§200.412 Classification Of Costs

- There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system.

- A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of Federal awards.

- Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in this subpart.
§200.413 Direct Costs

- Makes consistent the guidance that administrative costs may be treated as direct costs when they meet certain conditions to demonstrate that they are directly allocable to a Federal award.

- Certain conditions include:
  - Administrative or clerical services are integral to a project or activity;
  - Individuals involved can be specifically identified with the project or activity;
  - Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency; and
  - The costs are not also recovered as indirect costs.
§200.414 Indirect (F&A) Costs

- Provide a **de minimis indirect cost rate of 10%** of MTDC to those non-Federal entities who have never had a negotiated indirect cost rate, thereby eliminating a potential administrative barrier to receiving and effectively implementing Federal financial assistance;

- Require Federal agencies to accept negotiated indirect cost rates unless an exception is required by statute or regulation, or approved by a Federal awarding agency head or delegate based on publicly documented justification;

- Allow for a one-time extension without further negotiation of a federally approved negotiated indirect cost rate for a period of **up to 4 years**.
§200.419 Cost Accounting Standards and Disclosure Statement

- Institutions of Higher Educations (IHE) threshold for compliance with Cost Accounting Standards (CAS) was raised to $50 million

- Streamline review for changes to reduce the risk of non-compliance and audit finding.

- IHE must submit a Disclosure of Statement (DS-2) to their cognizant agency.
§200.421 Advertising and Public Relations

- Allows for costs of advertising program outreach and other specific costs necessary to meet the requirements of the federal award.
§200.425 & §200.428

- **§200.425 Audit Services**
  - Clarified to include reference to a non-Federal entity’s fiscal year in noting that when Federal awards total less than $750,000 the non-Federal entity is exempted from having a single audit.

- **§200.428 Collections of Improper Payments**
  - Allows recipients to be reimbursed for expenses associated with the effort to collect improper payment recoveries or related activities; these costs may be considered either indirect or direct costs.
Strengthen the requirements for non-Federal entities to maintain high standards for internal controls over salaries and wages while allowing for additional flexibility in how non-Federal entities implement processes to meet those standards.
§200.432 Conferences

- Conferences clarifies allowable conference spending and requires conference hosts/sponsors to exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and management in a manner that minimizes costs to the federal award.

- Provides that, for hosts of conferences, the costs of identifying (but not providing) locally available child-care resources are allowable.
§200.436 Depreciation

- Eliminates restrictions on use of indirect costs recovered for depreciation or use allowances.
- Donated assets may be depreciated or claimed as matching but not both.
§200.438 Entertainment Costs

- 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.

- Clarifies that any exceptions require a programmatic purpose as well as written prior approval from the Federal awarding agency.
Expands provision allowing equipment to be replaced as trade-in to all.
§200.440 Exchange Rates

- 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 ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act.

- 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.
§200.441 Fines, Penalties, Damages, and Other Settlements

- List of laws under which failure to comply could result in costs of fines and other penalties include Tribal law.

- Includes Tribal law violations

- Includes “alleged violations” and not just “violations” as unallowable except when there are results directly from complying with the terms of a Federal award or are approved in advance by the Federal awarding agency.
Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable unless prior written approval from the Federal awarding agency.
§200.444 General Government Expenses

- Includes language that allows up to 50% of the portion of salaries and wages for the chief executive and his or her staff supporting Federal awards for Indian Tribes and Councils of Government to be allowable as indirect costs without further justification.
§200.445 Goods Or Services For Personal Use

- Costs of goods or services for personal use of the non-Federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

- 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.
§200.446 Idle Facilities and Idle Capacity

- Allows for the costs of idle facilities when they are necessary to meet fluctuations in workload, such as those which may be typical of developing shared service arrangements.
§200.447 Insurance and Indemnification

● Deleted policy that the Federal government will participate in actual losses of a self-insurance fund that are in excess of the reserves, to protect the Federal government from inappropriate exposure to these types of costs.

● Language on fees paid to or on behalf of employees or former employees for worker’s compensation, unemployment compensation, moved to the section on fringe benefits.
§200.449 Interest

- Allows non-Federal entities to be reimbursed for financing costs associated with patents and computer software capitalized in accordance with GAAP after January 1, 2016.

- Eliminates requirements for Institutions of Higher Education (IHEs), and other entities where appropriate, to conduct a lease-purchase analysis to justify interest costs and to notify the cognizant agency prior to relocating federally sponsored activities from a facility financed by debt; language not included in guidance.

- Includes the costs of certain computing devices as allowable direct cost supplies, 200.453 Material and Supplies Costs, Including Costs of Computing Devices, (1), (4).
§200.455 Organization Costs

- Now unallowable to all organizations unless specific approval by the awarding federal agency:
  - Incorporation fees
  - Brokers fees
  - Fees to promoters
  - Organizers or management consultants
  - Attorneys
  - Accountants
  - Investment counselor
Clarifies that non-Federal entities 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.
§200.463 Recruiting Costs

- Eliminates requirements regarding printed "help-wanted" advertising.

- Costs associated with visas when critical skills are needed for a specific award may be proposed as a direct cost.

- When relocation costs are incurred with the recruitment of a new employee and have been funded in whole or in part as a direct cost to the federal award, and the newly hired employee resigns for reasons within the employee’s control within 12 months after hire, the non-Federal entity will be required to refund or credit only the Federal share of such relocation costs to the Federal government.
§200.464 & §200.465

- §200.464 Relocation Costs of Employees
  - Costs of the ownership of the vacant former home after the settlement or lease date of the employees new permanent home should only be paid for up to 6 months to eliminate excessive charges to the Federal government.

- §200.465 Rental Costs of Real Property
  - Provisions of the General Accepted Accounting Principles should determine whether a lease is a capital lease or not. Language added prohibiting the charge of home office space and utilities charged to a Federal award.
§200.474 Travel Costs

- Provides that temporary dependent care costs that result directly from travel to conferences and meet specified standards are allowable.
Audit Requirements

- **§200.501 Audit Requirements**: Raises the Single Audit threshold from $500,000 to $750,000 in Federal awards per year.

- **§200.512 Report Submission**: Requires publication of Single Audit Report Submission online with safeguards for protected personally identifiable information and an exception for Indian tribes in order to reduce the administrative burden on non-Federal entities associated with transmitting these reports to all interested parties.

- **§200.513 Responsibilities**: Responsibilities requires Federal awarding agencies to designate a Senior Accountable Official who will be responsible for overseeing effective use of the Single Audit tool and implementing metrics to evaluate audit follow-up. A non-Federal entity spending more than $50M a year in federal awards must have a cognizant agency for audit.

- **§200.521 Management Decision**: Includes language to require auditees to initiate corrective action as rapidly as possible, and not wait until audit reports are submitted.
Appendix III - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

- Includes provisions that extend to all IHEs the provisions previously extended only to a few that allow for recovery of increased utility costs associated with research.

- While charges to utility cost adjustment should be based on actual costs, the amount recoverable should be limited to an amount equal to 1.3% of the IHE’s indirect cost rate until such time as OMB and Federal agencies can better understand the cost implications of full reimbursement of actual costs and the potential implication for Federal programs.
Be mindful of “must” versus “should”

This presentation only highlights some changes as a result of the Uniform Guidance. Please refer to the 2 CFR Part 200 for all changes.
DOC Resources

- Revised DOC Financial Assistance Standard Terms and Conditions
- Revised DOC Pre-Award Notification Requirements for Grants and Cooperative Agreements
- Revised DOC Research Development Award Conditions
Additional Resource

- Refer to https://cfo.gov/cofar/ for the 2 CFR Part 200, and additional resources posted such as the FAQs, crosswalks, etc.