

Frequently Asked Questions for New Uniform Guidance at 2 CFR 200

I - Process and Background

Q I-1: When and why did we begin this process?

- This uniform guidance was developed in response to the November 23, 2009 Executive Order 13520 on *Reducing Improper Payments* and the February 28, 2011 Presidential Memorandum on *Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments*.
- In those documents, the President directed OMB to work with Executive Branch agencies; state, local, and tribal governments; and other key stakeholders to evaluate potential reforms to Federal grants policies.
- The Council on Financial Assistance Reform (COFAR) was established in October 2011 and has led several efforts to improve delivery, management, coordination, and accountability of Federal grants and cooperative agreements, which includes the development of the uniform guidance.

Q I-2: How have we engaged stakeholders over the past two years?

- This reform follows OMB's February 1, 2013 Notice of Proposed Guidance (NPG) and February 28, 2012 Advance Notice of Proposed Guidance (ANPG) published in the Federal Register.
- The COFAR also hosted a public webcast on the NPG (available at cfo.gov/COFAR) and participated in public discussions of the proposed reforms when invited by interested stakeholders.
- The ANPG and NPG each received more than 300 public comments, which are available to the public on www.regulations.gov
- The process has been led by the COFAR, an interagency council of OMB, the eight largest Federal grant-making agencies and one rotating small grant-making agency. Other Federal grant making agencies have provided input as well.

Q I-3: How does this reform complement OMB's work on the Evidence Agenda?

- These reforms complement targeted efforts by OMB and a number of Federal agencies to reform overall approaches to grant-making by implementing innovative, outcome-focused grant-making designs and processes in collaboration with their non-Federal partners as described in OMB Memorandum 13-17, *Next Steps in the Evidence and Innovation Agenda*.
- The uniform guidance will provide a backbone for sound financial management as Federal agencies and their partners continue to develop and advance innovative and effective practices.

- OMB plans to work with agencies to examine ways these new flexibilities can be used to support innovative, outcome-focused grants.
- Specifically this reform focuses on performance over compliance for accountability by; (see Q I-7 #2 under **What is the Impact of this reform?** below)

Q I-4: Did OMB hold formal consultations with Indian Tribes?

- In addition to the two formal comment periods and public webcast on the reform, OMB held three conference calls with tribal leaders on February 10, 2012, March 15, 2012, and May 22, 2013.

Q I-5: Who will be impacted by this reform?

- This reform will impact Federal agencies, non-Federal entities (states, local governments, Indian tribes, institutions of higher education (IHE), and nonprofit organizations) that receive Federal awards as a recipient or subrecipient, and their auditors. (*See expected impact below. Q I-7*)

Q I-6: Where can I get more information about the policies that are changed?

- Please visit www.cfo.gov/COFAR for more information on the following resources:
 - A link to a recorded webcast that was broadcast on December 20th.
 - A link to a recorded training webcast that was broadcast on January 27th
 - Crosswalks and side-by-sides that explain where to find revised sections of the old guidance in the uniform guidance and show the language from the old guidance next to the new language. These crosswalks and side-by-sides are available at http://www.whitehouse.gov/omb/grants_docs

Q I-7: What is the impact of this reform? How does this reform reduce administrative burden and risk of waste, fraud, and abuse?

- Here is a list of ways that the uniform guidance reduces administrative burden and risk of waste fraud and abuse:

1. Eliminating duplicative and conflicting guidance:

- By combining eight previously separate sets of OMB guidance into one, OMB has eliminated about 80 pages (or about 25% of pages) of overlapping duplicative and conflicting provisions of guidance that were developed separately over many years.
- Beyond dealing with the administrative burden associated with understanding such guidance, non-Federal entities have faced risks of more restrictive oversight and audit findings that stem from inappropriate applications of the guidance caused by overlapping requirements.
- This completes a long-standing goal of co-locating all related OMB guidance into Title 2 of the Code of Federal Regulations.

2. Focusing on performance over compliance for accountability (linking to the OMB Evidence Agenda):

- By expanding options for fixed amount awards based on meeting performance milestones.
- Set the stage for OMB waivers to approve new strategies for innovative program designs that draw on OMB guidance in M-13-17.
- Streamline reporting requirements for salaries and wages to focus on high standards for internal controls with flexibility for non-Federal entities in how they meet the standards. Also includes flexibilities for entities that have approval to try new approaches based on outcomes or to combine funds from multiple programs.

3. Encouraging efficient use of information technology and shared services:

- Updated provisions account for the efficient use of electronic information, as well as the acquisition and use of the information technology systems and shared services that permeate an effective and modern operating environment.
- These provisions encourage non-Federal entities to, whenever practicable, collect, transmit and store Federal award-related information in open and machine-readable formats in accordance with the May 9, 2013 Executive Order on *Making Open and Machine Readable the New Default for Government Information*.

4. Providing for consistent and transparent treatment of costs:

- Updated policies on indirect cost reduce administrative burden by providing more consistent and transparent treatment governmentwide.
- The provisions set conditions that make transparent agency decisions to use other than approved indirect cost rates, and provide for a *de minimis* indirect cost rate for those non-Federal entities that have never had a rate and for whom existing requirements to negotiate might be a burden that prevents them from receiving assistance at all or implementing it effectively.
- It also clarifies allowable direct charges for administrative expenses and contingency costs.

5. Limiting allowable costs to make the best use of Federal resources:

- Language is strengthened in certain areas such as conferences, morale, relocations, and student activities to appropriately limit allowable costs under Federal awards.

6. Setting standard business processes using data definitions:

- Updated provisions set the stage for Federal agencies to manage Federal awards via standardized business process and use of consistently defined data elements.
- This will reduce administrative burden on non-Federal entities that must navigate the processes of multiple Federal agencies as they manage information required to implement Federal awards.

7. Encouraging non-Federal entities to have family-friendly policies:

- Provisions in the uniform guidance provide flexibilities that, when implemented by non-Federal entity-wide policy, better allow for employees of non-Federal entities to balance their personal responsibilities while maintaining successful careers contributing to

Federal awards, resolving an issue that has been identified as one that often prevents women from maintaining careers in science.

8. Strengthening oversight:

- New language requires Federal agencies and pass-through entities to review the risk associated with a potential recipient prior to making an award (including by making better use of available audit information where appropriate).
- It also requires disclosures of relevant conflict of interest or criminal violations, expressly prohibiting profit, requiring certifications by senior officials of the non-Federal entity, and providing Federal agencies with strong remedies to address situations of non-compliance.

9. Targeting audit requirements on risk of waste, fraud, and abuse:

- The uniform guidance focuses audits where there is greatest risk of waste, fraud, and abuse of taxpayer dollars.
- It strengthens existing requirements for Federal agencies to rely to the extent possible on the work of the Single Audit before initiating additional audits.
- It improves transparency and accountability by making single audit reports available to the public online and encourages Federal agencies to take a more cooperative approach to audit resolution that will more conclusively resolve underlying weaknesses in internal controls.
- Targets Federal oversight resources where the most Federal dollars are at risk by raising the threshold for the single audit requirement from \$500,000 to \$750,000, covering over 99% of the funds currently covered while eliminating the requirement for about 5,000 entities and saving the government about \$250 million per year.

Q I-8: Why and how did the COFAR reach some of the particular policy recommendations that they did? What are the major differences between the final guidance and the proposed guidance? Can you give us an example of a policy call where the COFAR had to make some tough tradeoffs and share some of the thinking behind the decision?

- OMB worked with the COFAR to review the many valuable comments on the proposal received from different stakeholders.
- The COFAR recommended improving policies that protect against waste, fraud, and abuse, while reducing unnecessarily burdensome administrative requirements, and so reorients recipients toward achieving program objectives.
- For a complete discussion of the COFAR's policy recommendations, please see the preamble published with the uniform guidance at <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>.
- The policy outcomes in the uniform guidance reflect recommendations from the COFAR to OMB after considering feedback from all stakeholders.
- The COFAR deliberated carefully on each issue, and recognized that in some cases it was impossible to please everyone.

- For example, on the single audit threshold, some stakeholders recommended a higher level, while others recommended a lower one, while all stakeholders agreed that the audit threshold was an important piece of the single audit process.
- Single Audits must be viewed both in terms of how they are performed as well as the broader framework of internal controls in place, particularly those governing the relationships between pass-through entities and subrecipients.
- The COFAR recommended the audit threshold be raised to \$750,000 because that is a level that continues to provide coverage for over 99% of the Federal dollars that are currently covered by the Single Audit, while relieving burden for over 5,000 entities and allowing Federal oversight resources to be targeted where the most Federal dollars are at risk.
- The COFAR considered this reform carefully in the context of the other recommended reforms.
- For more details on this and other specific areas of reform, please visit www.cfo.gov/COFAR.

Q I-9: What are the other COFAR priorities this year?

- The COFAR's highest priority this year is facilitating smooth implementation of the uniform guidance.
- For additional information on the COFAR's coming work, please see the presentation available here: <https://cfo.gov/wp-content/uploads/2013/12/2013-12-04-COFAR-Priorities-for-Principals.pdf>
- For further information about all COFAR activities, please visit www.cfo.gov/COFAR .

Q I-10: Responses to comments. Beyond the preamble to the Federal Register notice publishing 2 CFR 200 (and the provisions themselves), does OMB plan any further responses to the comments of those who responded to the February 2013 version?

- The preamble constitutes the COFAR's responses to comments, and this FAQ document will be updated periodically to reflect further COFAR clarifications where needed.

II - Effective Date

Q II-1: When does the uniform guidance become effective?

- The effective date is covered in section 200.110, Effective/applicability date.
- Federal agencies must implement the requirements to be effective by December 26, 2014.
- Subpart F, Audit requirements, will apply to audits of non-Federal entity fiscal years beginning on or after December 26, 2014. The revised audit requirements are not applicable to fiscal years beginning prior to that date.
- Administrative requirements and cost principles will apply to new awards and to additional funding (funding increments) to existing awards made after Dec 26, 2014.
- Existing Federal awards will continue to be governed by the terms and conditions of the Federal award.

Q II-2: Will this apply only to awards made after the effective date, or does it apply to awards made earlier?

- Once the uniform guidance goes into effect for non-Federal entities, it will apply to awards or funding increments after that date. It will not retroactively change the terms and conditions for funds a non-Federal entity has already received.
- We would anticipate that for many of the changes, non-Federal entities with both old and new awards may make changes to their entity-wide policies (for example to payroll or procurement systems). Practically speaking, these changes would impact their existing/older awards. Non-Federal entities wishing to implement entity-wide system changes to comply with the uniform guidance after the effective date of December 26, 2014 will not be penalized for doing so.

Q II-3: Should we continue using 2 CFR 220, 225, and 230 until December 2014, even though these regulations have now been removed from the CFR?

- The terms and conditions of the Federal award always govern, and even once the uniform guidance goes into effect, Federal agencies will need to ensure that all non-Federal entities have full access to the terms and conditions of Federal awards made prior to the uniform guidance becoming effective.
- The original circulars are also available on the OMB website at http://www.whitehouse.gov/omb/grants_circulars.
- Federal agencies may not impose the uniform guidance prior to the effective date.

Q II-4: What are the next steps for the single audit Compliance Supplement and single audit resolution?

- The COFAR has made a commitment that for the rest of this year, work will focus primarily on initiatives that support smooth implementation of this uniform guidance.
- The 2014 Single Audit Compliance Supplement is the first priority on that list, and the COFAR has begun work to develop a framework for it that delivers on the uniform guidance's goal of further streamlining the types of single audit compliance requirements, and previews the implementation of changes that will go into effect at the end of 2014.
- In developing this framework, OMB will use the same process that it uses in developing the Compliance Supplement itself, which includes outreach to non-Federal stakeholders.
- Our goal is to publish the 2014 Single Audit Compliance supplement in April 2014.
- The 2015 Compliance Supplement is expected to be released in April 2015 and will implement changes to complement the uniform guidance.
- The COFAR is also working to draft best practices around cooperative audit resolution, and to publish a list of links to Federal agency audit resolution policies.
- The Federal Audit Clearinghouse (FAC) is working to develop additional analytical tools to better support audit resolution and provide data for outcome based metrics to allow Federal agencies to track the effectiveness of audit finding follow-up over time.
- The COFAR will be working with the FAC and the auditing profession to explore ways to combine the single audit reporting package (i.e., Schedule of Expenditures of Federal Awards

and Auditor's Summary) with the reporting to the FAC in the data collection form to reduce duplication and improve the accuracy of FAC data.

- Finally, the COFAR plans to consider how to better coordinate the process of issuing management decision letters governmentwide.

III - Administrative Requirements

Q III-1: What clarification can OMB and COFAR provide regarding changes to the term contractor and the elimination of the term vendor?

- In existing guidance, the COFAR has found that some confusion results from the fact that OMB Circular A-133 makes a distinction between subrecipients and “vendors” while other circulars describe either subawards or “subcontracts”.
- For purposes of this guidance, when a non-Federal entity provides funds from a Federal award to a non-Federal entity, the non-Federal entity receiving these funds may be either be a subrecipient or a contractor. The term contractor is used for purposes of consistency and clarity to replace areas in the previous guidance that referred to vendors, though substantively in the previous guidance, these two terms have always had the same meaning.
- Section 200.330 Subrecipient and Contractor Determinations, as well as section 200.22 Contract and 200.92 Subaward provide guidance on making subrecipient and contractor determinations. This language was largely taken from existing guidance in OMB Circular A-133 on subrecipient and vendor determinations.
- As described in the uniform guidance in the sections noted above, it is the substance of the award that determines how it should be treated, even though the pass-through entity or non-Federal entity receiving the award may call it by a different name.
- So, if a pass-through entity makes an award that it calls a “contract”, but which meets the criteria under section 200.330 to be a subaward to a subrecipient, the non-Federal entity must comply with the provisions of the uniform guidance relevant to subawards, regardless of the name used by the pass-through entity to refer to the award agreement.
- Likewise, any Federal awards that meet the criteria under section 200.330 for the non-Federal entity to be considered a contractor, whether the non-Federal entity providing the funds calls it a “vendor agreement” or a “subcontract”, the non-Federal entity must comply with the provisions of the uniform guidance relevant to a contractor.

Q III-2: Section 200.309 Period of Performance says that costs are permitted only during the period of performance. Does this mean that the agency regulations will no longer be able to allow no-cost extensions as a normal course of business?

- No. A Federal agency may allow no-cost extensions of the period of performance.

Q III-3: How does the usage of the term “profit” in §200.400(g) apply, if at all, to awards with or performed by charitable nonprofits?

- The guidance in section 200.400(g) states that The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award (with a reference to §200.307 Program income).
- The guidance in 200.400(g) is intended only to make this long-standing requirement explicit for purposes of accountability and oversight. It has always been true that costs under Federal awards must be reasonable, allocable and allowable. By definition, this has always excluded any additional increment for profit beyond cost.

Q III-4: In Section 200.303 Internal Controls, what is the expectation about a non-Federal entity's compliance with the guidance in the Green Book?

The requirement is that the non-Federal entity must establish and maintain effective internal controls over Federal awards that provide reasonable assurance that awards are being managed in compliance with Federal statutes, regulation and the terms and conditions of the Federal award. The uniform guidance also refers non-Federal entities to the following three documents for best practices:

- "Standards for Internal Control in the Federal Government" (Green Book) issued by the Comptroller General.
- "Internal Control Framework" issued by the Committee on Sponsoring Organizations (COSO)
- Appendix XI, Compliance Supplement – Part 6 Internal Control (which currently follows COSO but will consider both the Green Book and COSO in the 2015 update (200.514(c)(1))

While non-Federal entities must have effective internal control, there is no expectation or requirement that the non-Federal entity document or evaluate internal controls prescriptively in accordance with these three documents or that the non-Federal entity or auditor reconcile technical differences between them. They are provided solely to alert the non-Federal entity to source documents for best practices. Non-Federal entities and their auditors will need to exercise judgment in determining the most appropriate and cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with Federal program requirements.

Q III-5: The word "should" is used throughout section 200. Does it really mean "must"?

- No. The word "must" is used throughout section 200 to indicate requirements. The word "should" is used to indicate best practices or recommended approaches that the COFAR wanted non-Federal entities to be aware of, but not necessarily required to comply with.

Q III-6: In Section 200.54 Indian Tribes were removed from the definition of a state. How will this impact the application process for funds reserved for states? Will tribes no longer qualify?

- This should have no impact on the application process for funds reserved for states. These definitions are applicable only to this guidance unless specifically indicated otherwise.

Q III-7: Does the insertion of "or duplicative" in the first sentence of 200.318(d) mean that universities will have to revert to equipment screening procedures that were eliminated under the Federal Demonstration Project over 20 years ago?

- The uniform guidance in section 200.318(d) states that the non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- The above language does not require any specific equipment screening procedures.

IV - Cost Principles

Q IV-1: Per 200.436(c)(3), the acquisition cost of depreciable assets will exclude: “Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery.” Is this qualification limited to instances of cost sharing or matching or does it apply more broadly?

- Yes, this qualification is limited to instances of cost sharing or matching as described by 200.436(c) above it, from which it follows. 200.436(c) is copied here with emphasis in bold added: “(c) **Depreciation is computed applying the following rules.** The computation of depreciation must be based on the acquisition cost of the assets involved. **For an asset donated to the non-Federal entity by a third party,** its fair market value at the time of the donation must be considered as the acquisition cost. **Such assets** may be depreciated or claimed as matching but not both. **For this purpose, the acquisition cost will exclude:** ..(3) Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery; ..”

Q IV-2: Uncommitted cost sharing is not discussed in the new uniform guidance. Is the OMB Clarification of Uncommitted Cost Sharing still in effect?

- Yes. The OMB Clarification on uncommitted cost sharing is available here: <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/memoranda/m01-06.pdf>

Q IV-3: Can an entity extend their rate for up to 4 years even if it’s a really old rate (say 10 years ago)? Can they only extend for 4 years? What about 3 years or 2 years?

- Uniform guidance in section 200.414 states that any non-Federal entity with a federally negotiated indirect cost rate may apply for a one-time extension for a period of up to 4 years. The extension is subject to the review and approval of the cognizant agency for indirect costs.
- Requests for extensions may be for periods of less than 4 years. The extension period is subject to the review and approval of the cognizant agency for indirect costs.

V - Audit Requirements

Q V-1: In Section 200.512(b)(2) regarding Report Submission, tribes have the option to opt out of authorizing the Federal Audit Clearinghouse (FAC) to make the reporting package publically available on a Web site. Does this apply to all entities associated with the tribe? For example, would hospitals, clinics, housing authorities, and economic development entities associated with a tribe be permitted to use this option?

- This option applies and is limited to entities meeting the definition of “Indian Tribe” in section 200.54.
- However, if a tribe elects this option they are required to provide a copy of their reporting package to pass-through entities and make a copy of their reporting package available for public inspection as required by the Single Audit Act Amendments of 1996. The impact of the option is the exclusion of the reporting package from public availability on the FAC Web site.

Q V-2: In Section 200.513 a “Single Audit Accountable Official” is required and will be responsible for overseeing the Single Audit. Can you clarify this position? Is this an additional position on top of the National Single Audit Coordinators in the agency’s Office of Inspector General (OIG)?

- Section 200.513(c)(5) requires Federal awarding agencies to provide OMB the name of a single audit accountable official from among the senior policy officials of the agency and for this official to designate the agency’s key management single audit liaison at a working level to facilitate the agency’s day to day activities related to the single audit process. The responsibilities of these positions as outlined in the Section 200.513(c)(5) and (6) are to ensure agency management effectively uses the single audit process to reduce improper payments and improve Federal program outcomes and to hold agency management accountable for doing so through metrics. In addition to improving the agency’s use of the single audit process, the designation of these officials will facilitate interagency coordination to carry out the COFAR’s strong program oversight agenda such as improving audit resolution, single audit metrics, making better use of Federal Audit Clearinghouse data, and revising the Compliance Supplement to focus on the requirements most likely to cause improper payments, waste, fraud, and abuse.
- Since these two new designees relate to management responsibilities and since the OIG is independent of management, these management officials will be organizationally separate from the OIG.
- Some OIGs have a member of their staff designated as the national single audit coordinator who has responsibilities related to the single audit process consistent with the OIG duties under the IG Act. While management and OIG functions are separate, they both have goals related to accountability for Federal awards and effective use of the single audit process. Therefore it is expected that the agency’s single audit accountable official and key management single audit liaison would work together and coordinate with the OIG national single audit coordinator while respecting the independence of the OIG under the IG Act.