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NCURA Webinar

Navigating the Revisions to the UG

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Introduction

- Issued December 26, 2013
- Effective December 26, 2014
- Implemented by the various agencies
- Clarified via various FAQ documents
- Revision issued August 13, 2020; FR 49506 (vol 85, No. 157)



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Introduction (cont.)

- Revisions effective
 - August 13, 2020
 - 200.216 “Prohibition on certain telecommunications and video surveillance services or equipment”
 - 200.340 “Termination”
 - November 12, 2020
 - Remaining sections

- See crosswalk between old and new versions



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Reason for Revisions

- UG includes requirement to review every 5 years (200.109)
- President’s Management Agenda (3/20/2018)
 - Modernize reporting by recipients
 - Strengthen government-wide approach to performance and risk to encourage agencies to measure the recipient’s performance to help improve federal program goals and objectives, share lessons learned, and spread the adoption of promising performance practices
- Implement statutory requirements
- Clarify areas of misinterpretation



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Overview of Revisions

- Part 25 Universal Identifier and System for Award Management
 - All entities receiving federal funds must have a UEI
 - Pass-through entities must impose UEI requirement on all subrecipients



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Overview of Revisions (cont.)

- Part 170 Reporting Subaward and Executive Compensation Information
 - Agencies must report all awards issued above the micro-purchase threshold (\$10K)
 - Agencies must include notice in funding opportunities that recipients may be subject to Transparency Act (FFATA) reporting



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Overview of Revisions (cont.)

- Part 183 Never Contract with the Enemy
 - Enacted with NDAA 2015
 - Applies to awards >\$50K and for performance outside the US that are in support of contingency operation of armed forces actively engaged in hostilities.
 - Added to Title 2 via NDAA 2020 in order to ensure that agencies follow FAPIIS and SAM EPL screening before making awards
 - Includes an award term to be included in subject awards
- Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards...



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Subpart A: Acronyms and Definitions (2 CFR 200.0XX)



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Subpart A – Definitions

- Numbers assigned to each definition have been removed
- A few definitions moved to alphabetical location
- *Catalog of Federal Domestic Assistance (CFDA)* has changed to *Assistance listing*; two new definitions are
 - *Assistance listing number*
 - *Assistance listing program*
- *Compliance supplement* was previously defined as “Appendix XI to Part 200”; now the definition provides a functional description



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Subpart A – Definitions (cont.)

- *Budget period (new)*: refers to the start and end of a funded portion of the award during which recipients are authorized to expend funds, including carry-forward funds
- *Period of performance (revised)*: total estimated time interval between the start of a federal and the planned end date, which may include one or more funded portions or budget periods.
- *Renewal award (new)*: an award made subsequent to an expiring Federal award for which the start date is contiguous with, or closely follows, the end of the expiring federal award. Starts a new *period of performance*.



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Subpart A – Definitions (cont.)

- *Discretionary award* and *Non-discretionary award* were added for purposes of funding opportunities to reflect that a *discretionary award* is one for which the agency can exercise judgement (within statutory authority) to make an award based on a competitive process or based on the merit of the proposals (e.g., non-competitive); the agency has no discretion to exercise judgement with a non-discretionary award



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Subpart A – Definitions (cont.)

- *Highest level owner*: added for purposes of supporting SAM registration requirements in Part 25
- *Improper payment*: clarifies existing definition; expands definition to include any payment for which an agency cannot determine whether a payment was proper as result of insufficient documentation.



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Subpart A – Definitions (cont.)

- *Internal controls* and *Internal control over compliance requirements for Federal awards*:
 - The former applies to non-federal entities, and the latter to federal agencies.
 - *Internal controls* was expanded to incorporate OMB Circular A-123 “Management’s Responsibility for Enterprise Risk Management and Internal Control”, which negates the need for *Internal control over compliance requirements for Federal awards*



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Subpart A – Definitions (cont.)

- *Micro-purchase threshold* was added to separate it out from *micro-purchase*.
 - Previously referred to “simplified acquisition procedures” but now refers to “micro-purchase procedures”
 - Recognizes that a non-Federal entity may have an approved micro-purchase threshold above that defined in the FAR (currently \$10K)
- *Notice of funding opportunity*: new definition that simply defines the concept



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Subpart A – Definitions (cont.)

- *Oversight agency for audit*: clarifies more specifically how this is determined for a non-federal entity
- *Simplified acquisition threshold*: clarifies that the non-federal entity is responsible for determining its own threshold which cannot exceed the FAR-defined threshold (currently \$250K)



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Subpart B: General Provisions (2 CFR 200.1XX)



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200.102 Effective/applicability date (revision)

- The effective date of changes to indirect cost rates must be based upon the date that a newly re-negotiated rate goes into effect for a specific non-Federal entity's fiscal year.
- Potential Impact to Institution (low)
 - OMB states that it "strongly encourages Federal awarding agencies to add or remove requirements by applying a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance."



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200.105 Effect on other issuances (revision)

- "...to prohibit Federal awarding agencies from including references to non-authoritative guidance in the terms and conditions of Federal awards."
- Potential Impact to Institution (low)



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200.110 Exceptions (revision)

- Only in limited circumstances, this provision gives agencies some flexibility to make exceptions to Uniform Guidance requirements
- Potential Impact to Institution (low)
 - OMB states that it "strongly encourages Federal awarding agencies to add or remove requirements by applying a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance."



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Subpart C: Pre-Federal Award Requirements and Contents of Federal Awards (2 CFR 200.2XX)



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200.202 Program planning and design (new)

- Requires agency to create an Assistance Listing prior to issuing a program announcement.
- Potential Impact to Institution (low)
 - Increases transparency
 - Implements switch from CFDA to Assistance Listing.
 - Clarifies federal agency obligation to ensure that assistance programs align with the goals and objectives of the authorizing legislation of the program, and with the agency's performance measurement, management and reporting obligations.



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200.203 Requirement to provide public notice of Federal financial assistance programs

- Modifies existing section to implement new Assistance Listing requirement for purposes of issuing funding opportunities
- Potential Impact to Institution (low)
 - Increases transparency



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200.208 Specific conditions

- Modifies existing section to require agencies to include award terms that are consistent with the new program design requirements of 200.202
- Potential Impact to Institution (low)
 - Increases transparency



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200.211 Information contained in a Federal award

- Modifies existing section to require agencies to:
 - include performance goals in the award, as well as specifying how performance will be assessed.
 - identify the current Budget Period, as well as future Budget Periods, if anticipated
 - specify the termination provisions that will apply to the award
- Potential Impact to Institution (low)
 - Increases transparency



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200.215 Never contract with the enemy

- Enacted via NDAA 2015
- Applies to awards in excess of \$50K, for performance outside the US that are in support of contingency operation of armed forces actively engaged in hostilities.
- Potential Impact to awardees (low)
 - Added to Title 2 via NDAA 2020 in order to ensure that agencies follow FAPIIS and SAM EPL screening before making awards
 - Must be flowed-down



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200.216 Prohibition on certain telecommunications and video surveillance services or equipment (new)

- Prohibition on procuring/paying for equipment/services from Huawei, ZTE and related companies
- Implemented via NDAA 2019, Section 889; effective 8/13/2020
- Award term is located in allowable costs section at 200.471
- Potential Impact to awardees (high)
 - May need to screen vendors and equipment; pcards!
 - Must be flowed-down
 - Contract (FAR) implementation is more robust



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Subpart D: Post Federal Award Requirements (2 (2 CFR 200.3XX)



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200.301 Performance measurement

- Requires agencies to measure awardee performance
 - Greater transparency on how agencies measure performance goals
 - Require agencies to ensure “good performance”
- Potential Impact to awardees (high)
 - Greater emphasis on project outcomes, reporting format and submission timelines
 - Poor performance could lead to termination



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200.320 Methods of procurement to be followed

- Establishes three (3) categories for procurement methods: informal (micro purchase, small purchase), formal (sealed bids, proposals) and noncompetitive (sole source)
- Micro Purchase Threshold (MPT) updated to \$10K, provides self-certification for increase up to \$50K and flexibility to extend beyond \$50K with cognizant agency approval
- Potential Impact to awardees (low)
 - Provides clarification on procurement methods and usage
 - Brings UG in line with MPT and provides path for increase



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200.322 Domestic preferences for procurements

- Requires non-Federal entity to procure U.S. made, manufactured or sourced goods and products to the greatest extent possible
- No dollar threshold – required “to the maximum extent practicable”
- Required to flow down to all Subawards, contracts and POs
- Potential Impact to awardees (low)
 - May alter current procurement sourcing practices



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200.329 Monitoring and reporting program performance

- Requires agencies to make reporting requirement clear to recipient for which performance can be measured
- Extends final performance report due dates to NLT 120 days
 - Subrecipients no later than 90 days
- Potential Impact to awardees (high)
 - Greater transparency to recipients regarding how performance is measured
 - Provides additional time for preparation and submission of final reports



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200.332 Requirements for pass-through entities

- Confirms use of the *de minimis* indirect cost rate for subrecipients who do not have an approved rate; requires no documentation
- Clarifies pass-through entity's responsibility to address subrecipient's audit finding specific to their Subaward
- Potential Impact to awardees (low)
 - Reduces administrative burden on pass-through entities



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200.340 Termination

- Effective on August 13, 2020
- Now allows agencies to terminate an award when it no longer aligns with program goals or agency priorities
- Termination provisions must be clearly articulated in the terms and conditions of the award
- Removes termination for cause provision
- Potential Impact to awardees (low)
 - Agencies already have similar means to terminate



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200.344 Closeout

- Final financial, performance and other reports are due no later than 120 days after period of performance
 - Subrecipients must submit reports to pass-through entity within 90 days
- Awarding agency must complete closeout within 1 year of period of performance, with or without reports from awardee
 - Agency must report awardee's non-compliance in the Federal Awardee Performance and Integrity Information System (FAPIS)



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200.344 Closeout (cont.)

- Potential Impact to awardees (high)
 - Provides additional time for preparation and submission of final reports
 - Repetitive failure to meet closeout requirements can impact Institution



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Subpart E: Costs Principles (2 CFR 200.4XX)



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200.414 Indirect (F&A) costs (revision)

200.414(f) De Minimis Rate

- Expanded the use of the *de minimis* rate of 10
 - Prior to the revisions, the only non-federal entities that could use the *de minimis* rate were ones that had never received a “negotiated indirect cost rate agreement” (NICRA).
 - Now, any entity “that does not have a current negotiated (including provisional) rate,” may choose to use the *de minimis* rate
- Potential Impact to Institution (medium)



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200.414 Indirect (F&A) costs (revision)

200.414(h) Publication of NICRA's

- Awareness of the new paragraph (h) to 200.414.
- For each non-federal entity, its negotiated indirect cost rate, distribution base, and rate type must be “available publicly on an OMB-designated Federal Web site.”
- Potential Impact to Institution (low)



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200.461 Publication and printing (revision)

- “If charged to the award, these costs must be charged to the final budget period of the award, unless otherwise specified by the Federal awarding agency.”
- Potential Impact to Institution (low)



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200.465 Rental costs of real property and equipment (revision)

- Added paragraphs (e)
 - (e) Rental or lease payments
- Potential Impact to Institution (medium)



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200.471 Telecommunication costs and video surveillance cost (new)

- Newly added to the UG.
- This implements the statutory requirement described at §200.216 making these costs unallowable
- Potential Impact to Institution (high)



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Subpart F: Audit Requirements (2 CFR 200.5XX)



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200.510 Financial statements

- Revised to reflect change from CFDA to Assistance Listings Number
- Potential Impact to awardees (low)
 - Awardee will need to revise Schedule of Expenditures of Federal Awards (SEFA) preparation



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200.513 Responsibilities

- Clarifies that determination of a non-federal entity's cognizant agency for audit responsibilities is based on the total direct funding received as a percentage of overall funding; re-evaluated every 5 years
- Date for government wide audit data quality project (required every 6 years) has been changed to 2021
- Potential Impact to awardees (low)
 - Provides additional time due to changes in 2019 Compliance Supplement



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Additional Resources

- Link to Federal Register issuance of UG revisions
 - <https://www.federalregister.gov/documents/2020/08/13/2020-17468/guidance-for-grants-and-agreements>
- Link to previous UG FAQs
 - <https://www.cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf>



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Questions??



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