

UNIFORM GUIDANCE

REVISIONS TO THE GUIDANCE
EFFECTIVE NOVEMBER 12, 2020



OFFICE OF
SPONSORED
PROJECTS

OUTLINE

- Background (why the change?)
- Three Main Goals
 - President's Management Agenda
 - Align With Relevant Statutory Requirements
 - Clarification of Existing Requirements
- Strategies Toward Maximizing Value of Grant Funding
- Overview of Changes

BACKGROUND

- Office of Management and Budget (OMB) published the Uniform Guidance on December 26, 2013, in the Federal Register, with an effective date of 12/26/14.
- §200.109 Review Date
 - OMB will review this part [UG] every five years after December 26, 2013.



THREE MAIN GOALS

- To support implementation of the President's Management Agenda Results-Oriented Accountability for Grants CAP goal and other Administration priorities
- To meet statutory requirements and to align with other authoritative source requirements
- To clarify existing requirements



**Results-Oriented
Accountability for Grants**





PRESIDENT'S MANAGEMENT AGENDA

- Lays out a long-term vision for modernizing the Federal Government in key areas that will improve the ability of agencies to deliver mission outcomes, provide excellent service, and effectively steward taxpayer dollars
- To drive these management priorities, the Administration leverages Cross-Agency Priority (CAP) Goals to coordinate and publicly track implementation across Federal agencies.





PRESIDENT'S MANAGEMENT AGENDA

- Disproportionate amount of time using antiquated processes to monitor compliance
 - Focus on modernization
 - Shift to focusing on analyzing data to improve results



Cross-Agency Priority Goals Overview

- Cross-Agency Priority (CAP) Goals are a tool used by leadership to accelerate progress on a limited number of Presidential priority areas where implementation requires active collaboration among multiple agencies. Long-term in nature, CAP Goals drive cross-government collaboration to tackle government-wide management challenges affecting most agencies.
- CAP Goals fall into four categories.

Key Drivers of Transformation



IT Modernization



Data, Accountability
and Transparency



People - Workforce
for the 21st Century

Cross-Cutting Priority Areas



Improving
Customer
Experience



Sharing Quality
Services



Shifting From Low-
Value to High-Value
Work

Functional Priority Areas



Category
Management



Results-Oriented
Accountability for
Grants



Getting Payments
Right



Federal IT Spending
Transparency



Frictionless
Acquisition

Mission Priority Areas



Modernize
Infrastructure
Permitting



Security Clearance,
Suitability, and
Credentialing
Reform



Lab-to-Market



ALIGN WITH RELEVANT STATUTORY REQUIREMENTS

- oNational Defense Authorization Acts (NDAAs)
- oFederal Funding Accountability and Transparency Act (FFATA)
- oDigital Accountability and Transparency Act (DATA Act)
- oNever Contract with the Enemy

FOUR STRATEGIES TO WORK TOWARD MAXIMIZING VALUE OF GRANT FUNDING



- In support of Strategies 1 and 2, OMB is implementing changes throughout 2 CFR to modernize reporting by recipients of Federal grants by requiring Federal agencies to adopt standard data elements for the information recipients are required to report.
 - Available at: <https://ussm.gsa.gov/fibf/>
- This adoption will enable technology solutions to better manage the data the recipients report to the Federal government. These changes also support implementation of the Grants Reporting Efficiency and Agreements Transparency Act of 2019 (GREAT Act).
- OMB is also implementing revisions to strengthen the governmentwide approach to performance and risk, to support efforts under Strategies 3 and 4 by encouraging agencies to measure the recipient's performance in a way that will help Federal awarding agencies and non-Federal entities to improve program goals and objectives, share lessons learned, and spread the adoption of promising performance practices.



Goal 1: Support Implementation of the President's Management Agenda and Other Administration Priorities

- A. Emphasizing Stewardship and Results-Oriented Accountability for Grant Program Results
- B. Expanded Use of the De Minimis Rate
- C. Eliminate References to Non-Authoritative Guidance
- D. Promoting Free Speech
- E. Standardization of Terminology and Implementation of Standard Data Elements
- F. Support for Domestic Preferences for Procurement
- G. Changes to the Procurement Standards to Better Target Areas of Greater Risk and Conform to Statutory Requirements
- H. Emphasis on Machine-Readable Information Format
- I. Changes to Closeout Provisions To Reduce Recipient Burden and Support GONE Act Implementation
- J. Changes to Performing the Governmentwide Audit Quality Project

PROGRAM PLANNING AND DESIGN

***NEW SECTION* (§200.202)**

- Emphasizes the importance of sound program design as an essential component of performance management and program administration.
 - Ideally, program design takes place before an agency drafts related projects.
 - This enables Federal agency leadership and employees to codify program goals, objectives, and intended results before specifying the goals and objectives in a solicitation.
 - A well-designed program has clear goals and objectives that facilitate the delivery of meaningful results

** This section formalizes a requirement that was already expected of Federal Awarding Agencies to develop a strong program design by establishing program goals, objectives, and indicators, to the extent permitted by law, before the applications are solicited.*

MERIT REVIEW

- Strengthen merit review, public notice of Federal financial assistance programs, and the notices of funding opportunities to further the goals of results-oriented grantmaking.
- Extend merit review process to all awards in which the Federal awarding agency has the discretion to choose the recipient
- These changes support the Administration's priority to ensure a fair and transparent process for the selection of award recipients and supports efforts under the President's Management Agenda to ensure that Federal awards are designed to achieve program goals and objectives.

INFORMATION CONTAINED IN A FEDERAL AWARD AND TERMINATION

- Changes are included in 2 CFR 200.211 *Information contained in a Federal award* and 2 CFR 200.301 *Performance measurement* further emphasize existing requirements for requiring Federal awarding agencies to provide recipients with clear performance goals, indicators, targets, and baseline data.
- OMB is revising §§ 200.211 *Information contained in a Federal award* and 200.340 *Termination* to strengthen the ability of the Federal awarding agency to terminate Federal awards, to the greatest extent authorized by law, when the Federal award no longer effectuates the program goals or Federal awarding agency priorities.
- Federal awarding agencies must clearly and unambiguously articulate the conditions under which a Federal award may be terminated in their applicable regulations and in the terms and conditions of Federal awards.
- The intent of this change is to ensure that Federal awarding agencies prioritize ongoing support to Federal awards that meet program goals.

FIXED AMOUNT AWARDS

- OMB is expanding the definition of fixed amount awards in § 200.1 to allow Federal awarding agencies to apply the provision to both grant agreements and cooperative agreements.

EXPANDED USE OF THE DE MINIMIS RATE

- Allows the use of 10% de minimis rate of modified total direct costs (MTDC) to all non-Federal entities.
 - With certain exceptions
 - Currently, the de minimis rate can only be used for non-Federal entities that have never received a negotiated indirect cost rate.
- Clarifies that when a non-Federal entity is using the de minimis rate for its Federal grants, it is not required to provide proof of costs that are covered under that rate.
- Another revision requires that all grantees negotiated agreements for indirect cost rates are collected and displayed on a public website.
 - Agency and website TBD
 - Focus on transparency

ELIMINATE REFERENCES TO NON-AUTHORITATIVE GUIDANCE

- In support of E.O. 13892 and to prohibit Federal awarding agencies from including references to non-authoritative guidance in the terms and conditions of Federal awards, OMB proposed changes to §200.105 *Effect on other issuances*.
- Intended to reduce recipient burden and prohibits Federal awarding agencies from including references to non-authoritative guidance in the terms and conditions.

PROMOTING FREE SPEECH

- Several provisions within 2 CFR are revised to align with E.O. 13798 “Promoting Free Speech and Religious Liberty” and E.O. 13864 “Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities.”
- These E.O.s advise Federal awarding agencies on the requirements of religious liberty laws, including those laws that apply to grants and provide a policy for free inquiry at institutions receiving Federal grants.
- The revision to 2 CFR underscores the importance of compliance with the First Amendment.
- The revised sections include:
 - §200.300 Statutory and national policy requirements
 - §200.303 Internal controls
 - §200.339 Remedies for noncompliance
 - §200.341 Notification of termination requirement

STANDARDIZATION OF TERMINOLOGY

OMB is standardizing terms across 2 CFR part 200 to support efforts under the Grants CAP Goal to standardize the grants management business process and data.

- OMB is replacing the term **“obligation”** to either **“financial obligation”** or **“responsibility”** within the guidance as appropriate, to ensure alignment with DATA Act definitions.
- The definitions **“Catalog for Federal Domestic Assistance (CFDA) number”** and **“CFDA program title”** have been **replaced with** the terms **“Assistance Listings number”** and **“Assistance Listings program title”**.
- The term “management decision” is revised to emphasize that it is a written determination provided by a Federal awarding agency or pass-through entity.
- OMB is revising 2 CFR part 200 to replace the term **“standard form”** with **“common form.”**
 - Existing forms widely adopted by Federal awarding agencies that are regularly referred to as standard forms are in fact common forms. For instance, the SF-424 series, SF-425, and research performance progress report are all common forms/formats.

STANDARDIZATION OF TERMINOLOGY

PERIOD OF PERFORMANCE, BUDGET PERIOD, AND RENEWAL

- The final rule revises the definitions for these terms to clarify how period of performance, budget period, and renewal operationally relate.

PERIOD OF PERFORMANCE

- Clarifies that the term period of performance reflects **the total estimated time interval between the start of an initial Federal award and the planned end date**, and that the period of performance *may include one or more budget periods*
- The identification of the period of performance does not commit funding beyond the currently approved budget period.

BUDGET PERIOD

- The definition of budget period was edited to clarify that **recipients are authorized to expend the current funds awarded**, including any funds carried forward or other revisions pursuant to 2 CFR 200.308.
- Recipients may only incur costs during the first year budget period until subsequent budget periods are funded based on the availability of appropriations, satisfactory performance, and compliance with the terms and conditions of the award.

RENEWAL

- The definition of renewal was edited to help clarify that a renewal award **begins a distinct period of performance** that starts contiguous with, or closely following, the end of the expiring award.
- This change also ensures consistent use of the term for purposes of transparency reporting as required by FFATA.

FACTORS AFFECTING ALLOWABILITY OF COSTS

- To maintain consistency within the guidance regarding the definition of *Budget Period*, 2 CFR 200.403(h) has been added to clarify that costs must be incurred during the approved budget period and the Federal awarding agency may waive prior written approval to carry forward unobligated balances to subsequent budget periods.

IMPROPER PAYMENT, QUESTION COSTS

- The definition of improper payment was revised to accurately reflect how questioned costs, including questioned costs identified in audits, **are not improper payments until reviewed and confirmed as such.**

SUPPORT FOR DOMESTIC PREFERENCES FOR PROCUREMENT

- Align with E.O. 13788 (Buy American and Hire American) and E.O. 13858 (Strengthening Buy-American Preferences for Infrastructure Projects)
- Maximize, consistent with law, the use of goods, products, and materials produced in the United States, through the terms and conditions of Federal financial assistance awards.



CHANGES TO THE PROCUREMENT STANDARDS

MICRO-PURCHASE THRESHOLD

- OMB is revising the guidance to increase the micro-purchase threshold from \$3,500 to \$10,000.
 - Incorporates the guidance in [M-18-18](#).
- Raises the simplified acquisition threshold from \$100,000 to \$250,000.
- All non-Federal entities are now authorized to request a micro-purchase threshold higher than \$10,000 based on certain conditions that include a requirement to maintain records for threshold up to \$50,000 and a formal approval process by the Federal government for threshold above \$50,000

UNM Procurement Services Matrix

- UNM's guidance and PO bid matrix is already in alignment with the new micro-purchase threshold (based on OMB Memo M-18-18).
- <http://purchase.unm.edu/departments-information/po-bid-matrix.pdf>

Goods	Services*
<p>Over \$60,000</p> <p><u>-State Bid Limit, Formal Competition Required Unless:</u></p> <ul style="list-style-type: none"> -Sole Source Posted in Sunshine Portal for 30 Days -or Price Agreement -or Exempt from Procurement Code -or Emergency Procurement <p><i>COI Required for Bids/Proposals & Sole Source ONLY</i></p>	<p>Over \$60,000</p> <p><u>-State Bid Limit, Formal Competition Required Unless:</u></p> <ul style="list-style-type: none"> -Sole Source Posted in Sunshine Portal for 30 Days - or Price Agreement -or Exempt from Procurement Code -or Emergency Procurement <p><i>COI Required for Bids/Proposals & Sole Source ONLY</i></p>
<p>\$10,000.01 - 60,000</p> <ul style="list-style-type: none"> -Informal Bid -Must obtain 3 Quotes <p><u>One Quote is acceptable if:</u></p> <ul style="list-style-type: none"> a) Existing Contract b) or Urgency - Procurement Services Dept Discretion c) or Fair Value per Procurement Services Dept Experience <p>-Informal Sole Source or Single Source also OK</p>	<p>\$10,000.01 - 60,000</p> <ul style="list-style-type: none"> -Informal Bid -Must obtain 3 Quotes <p><u>One Quote is acceptable if:</u></p> <ul style="list-style-type: none"> a) Existing Contract b) or Urgency - Procurement Services Dept Discretion c) or Fair Value per Procurement Services Dept Experience <p>-Informal Sole Source or Single Source also OK</p>
<p>Up to \$10,000</p> <ul style="list-style-type: none"> -Small Purchase <p>\$10,000 - Federal Small Purchase - Competition Required</p>	<p>Up to \$10,000</p> <ul style="list-style-type: none"> -Small Purchase <p>\$10,000 - Federal Small Purchase - Competition Required</p> <p>\$2,500+ Davis Bacon Act on Federal Construction</p>

EMPHASIS ON MACHINE-READABLE FORMATS

- OMB aims to clarify the methods for collection, transmission, and storage of data and promote the collection of data in machine-readable formats.
 - A machine-readable format is a format that can be easily processed by a computer without human intervention while ensuring no semantic meaning is lost.
- This requirement reflects the need to continually evaluate which formats (and structures) maximize accessibility and usability for all stakeholders.
- Machine-readable formats will also help support the Leveraging Data as a Strategic Asset Cross-Agency Priority Goal (CAP Goal #2) and efforts under the Grants CAP Goal to Build Shared IT Infrastructure.

SUPPORT GONE ACT IMPLEMENTATION

Based on lessons learned from the implementation of 2 CFR part 200 and the Grants Oversight and New Efficiency Act (GONE Act), OMB is revising 2 CFR 200.344 *Closeout* to support timely closeout of awards, improve the accuracy of final closeout reporting, and reduce recipient burden.

SUPPORT GONE ACT IMPLEMENTATION

- Increase the number of days for recipients to submit closeout reports and liquidate all financial obligations from 90 days to 120 days for pass-through entities.
 - Takes into consideration the challenges faced by pass-through entities with respect to awards that contain a large number of subawards.
 - Subrecipients are still required to submit their reports to the pass-through entity within 90 days.
- OMB is requiring Federal awarding agencies to report when a non-Federal entity does not submit final closeout reports as a failure to comply with the terms and conditions of the award to the OMB-designated integrity and performance system.
- OMB is publishing the requirement of Federal awarding agencies to make every effort to close out Federal awards within one year after the end of the period of performance unless otherwise directed by authorizing statute.

AUDIT QUALITY PROJECT

- Revisions to 2 CFR 200.513 include a change in the date for the requirement for a governmentwide audit data quality project that must be performed once every 6 years beginning with audits submitted in 2018.
- This date has been changed from 2018 to 2021, given the significant changes to the 2019 Compliance Supplement in support of the Grants CAP Goal.



Goal 2: Meeting Statutory Requirements and Aligning With Other Authoritative Source Requirements

- A. Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment
- B. Never Contract With the Enemy
- C. Requirement for the FAPIIS To Include Information on a Non-Federal Entity's Parent, Subsidiary, or Successor Entities
- D. Increase Transparency Through FFATA, as Amended by the DATA Act
- E. Aligning 2 CFR With Authoritative Sources

PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- OMB is adding a new section, 2 CFR 200.216 *Prohibition on certain telecommunication and video surveillance services or equipment*, which prohibit Federal award recipients from using government funds to enter into contracts (or extend or renew contracts) with entities that use covered telecommunications equipment or services.
- Aligns with Section 889 of the NDAA 2019
- Focus on foreign entities

PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- Covered telecommunications equipment or services include:
 - Telecommunications equipment produced by **Huawei Technologies Company** or **ZTE Corporation** (or any subsidiary or affiliate of such entities).
 - Video surveillance and telecommunications equipment produced by **Hytera Communications Corporation**, **Hangzhou Hikvision Digital Technology Company**, or **Dahua Technology Company** (or any subsidiary or affiliate of such entities).
 - Telecommunications or video surveillance services provided by such entities or using such equipment.
 - Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

NEVER CONTRACT WITH THE ENEMY

- OMB requires Federal awarding agencies to utilize SAM and FAPIIS to ensure compliance before awarding a grant or cooperative agreement.
- Federal awarding agencies are prohibited from making awards to persons or entities listed in SAM Exclusions (NDAA 2017) and are required to list in FAPIIS any grant or cooperative agreement terminated due to Never Contract with the Enemy as Termination for Material Failure to Comply.
- Revisions also require agencies to insert terms and conditions in grant agreements regarding a non-Federal entities' responsibilities to ensure no Federal award funds are provided (directly or indirectly) to the enemy.
 - PTE's must terminate subawards in violation of Never Contract with the Enemy

FAPIIS REQUIREMENTS

- OMB revised 2 CFR parts 25 and 200 to implement Section 852 of the NDAA 2013.
- Requires that the FAPIIS include information on a non-Federal entity's parent, subsidiary, or successor entities.
- Financial assistance applicants must provide information in SAM on their immediate owner and highest-level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract, grant, or cooperative agreement within the last three years.
- Prior to making a grant or cooperative agreement, agencies must consider all of the information in FAPIIS with regard to applicant's immediate owner or highest-level owner and predecessor, or subsidiary, if applicable.
- The purpose of providing this information is for greater transparency in the awarding of Federal financial assistance.

INCREASE TRANSPARENCY THROUGH FFATA

- Changes in 2 CFR make it clear that Federal agencies may receive Federal financial assistance awards.
 - Increase transparency for Federal awards received by Federal agencies.
- Revised the Federal awarding agency and pass-through entity reporting thresholds.
 - Federal awarding agencies required to report Federal awards that equal or exceed the micro-purchase threshold.
 - Consistent with the FAR threshold for subcontract reporting, OMB will raise the reporting threshold for subawards that equal or exceed \$30,000.
- Require Federal awarding agencies to associate Federal Assistance Listings with the authorizing statute to make listings more consistent.

ALIGNING 2 CFR WITH AUTHORITATIVE SOURCES

- OMB revises 2 CFR 200.431 (Compensation) to allow states to conform with Generally Accepted Accounting Principles (GAAP), specifically Governmental Accounting Standards Board (**GASB**) **Statement 68**, and to continue to claim pension costs that are both actual and funded.



Goal 3: Clarifying Requirements Regarding Areas of Misinterpretation

- A. Responsibilities of the Pass-Through Entity To Address Only a Subrecipient's Audit Findings Related to Their Subaward
- B. Reducing Burden on Universities by Clarifying Timing of the Disclosure Statement
- C. Response to Frequently Asked Questions Related to the Prior Release of 2 CFR
- D. Applicability of Guidance to Federal Agencies
- E. Other Clarifications

REQUIREMENTS FOR PASS-THROUGH ENTITIES

- OMB revises 2 CFR 200.332 *Requirements for pass-through entities* to clarify that pass-through entities (PTE) are responsible for addressing **only** a subrecipient's audit findings that are specifically related to their subaward.
- A PTE is not required to address all of the subrecipient's audit findings.

REDUCING BURDEN ON UNIVERSITIES

- OMB is adding language to the timing of submission of the disclosure statement (DS-2), which is only required for institutions of higher education that meet certain thresholds as defined in 48 CFR 9903.202-1(f).
- UNM's disclosure statement (DS-2) is addressed in Policy 2400: Cost Accounting Standards
 - The University Controller is responsible for submitting the Form DS-2 to the cognizant agency (DHHS). The Form DS-2 discloses the University's cost accounting practices, which must comply with the Uniform Guidance and applicable cost accounting standards.

RESPONSE TO FAQ'S FROM PRIOR RELEASE

OMB is including revisions to FAQs to clarify the following:

- The meaning of the words “must” and “may” as they pertain to requirements
- Applicability and documentation requirements when a non-Federal entity elects to charge the de minimis indirect cost rate of MTDC
- PTE responsibilities related to indirect cost rates and audits
- Applicability of 2 CFR to FAR based contracts.

These proposed revisions are intended to improve clarity and reduce recipient burden by providing guidance on implementing 2 CFR.

APPLICABILITY OF GUIDANCE TO FEDERAL AGENCIES

- OMB is making changes to 2 CFR 200.101 *Applicability* to clarify that Federal awarding agencies may apply the requirements of 2 CFR part 200 to other Federal agencies, to the extent permitted by law.
- This change recognizes that there are instances when Federal awarding agencies or pass-through entities have the authority to issue Federal awards to Federal agencies and in these instances, the provisions of 2 CFR part 200 may be applied, as appropriate.
- This change is consistent with how for-profit entities, foreign public entities, or foreign organizations are treated in the Uniform Guidance.

OTHER CLARIFICATIONS

- Many commenters expressed concerns that 2 CFR parts 25 and 170 were confusing, inconsistent and needed to be edited for clarity.
- In response to these comments, parts 25 and 170 have been revised throughout with many technical corrections to add clarity and consistency.

ARE WE ASLEEP YET??



JEREMY'S TOP 10 LIST



1. Micro-purchase threshold is now officially increased to \$10,000.
2. Fixed amount awards allowed for both grant agreements and cooperative agreements
3. Domestic preferences encouraged (Buy America/Hire America)
4. Updated and Standardized Terminology:
 - a. Period or Performance, Budget Period, Renewal
 - b. CFDA replaced with Assistance listing number
 - c. Replace standard form with common form
5. New section for Program Planning & Design
6. Non-authoritative guidance prohibited in T&C's
7. Expanded De Minimis Rate of 10% to all non-Federal entities
8. Never Contract with the Enemy
9. GONE Act: Closeout from 90 days to 120 days for PTEs
10. FFATA: Clarification that federal agencies may receive Federal Financial Assistance



Questions?

Detailed overview of changes can be found here:

<https://www.federalregister.gov/documents/2020/08/13/2020-17468/guidance-for-grants-and-agreements>

THANK
YOU FOR
YOUR
ATTENTION
AND TIME
TODAY!

