

Questions and Answers Regarding 2 CFR Part 200

Message from the Department of Education (the Department or ED):

Welcome to the Uniform Guidance (also referred to as 2 CFR Part 200) FAQ. Please note that the Uniform Guidance is evolutionary, not revolutionary. It includes changes to the way we do business with our grantees; however, only a few changes are significant.

These FAQs are updated as we receive new questions. The original posting date and revision date(s) are identified after each question. The topics are ordered based on where they are found in the Uniform Guidance.

In addition to the FAQs from the Department, we encourage you to review the [FAQs from Office of Management and Budget \(OMB\)](#).

The New Regulations

1. **Question:** Are the Uniform Guidance regulations final?
(posted 3/9/2016)

Answer: Yes, the Department adopted them as formal regulations in the [Federal Register on 11/2/2015 at 80 FR 67261](#), with minor technical changes. All amendments made to the Uniform Guidance by the OMB are automatically incorporated into ED's regulations.

2. **Question:** Is the Uniform Guidance (2 CFR Part 200) published in the *Federal Register* on 12/26/2013 the most recent version?
(posted 2/5/15; updated 3/9/2016)

Answer: No. Technical changes were made to that version on 12/19/2014, [7/22/2015](#), and [9/10/2015](#), as published in the *Federal Register*. For the most recent version of the regulations, go to [Electronic CFR - Uniform Guidance 2 CFR 200](#).

3. **Question:** Is the Uniform Guidance or the revised EDGAR available in a pdf or printed version?
(posted 6/25/15)

Answer: Not at this time. For now, you can find all current regulations at The Department's [EDGAR and Other Applicable Grant Regulations](#) site.

Subpart B – General Provisions

Applicability

1. **Question:** Does the Uniform Guidance apply to formula grants?
(posted 2/5/15)

Answer: Yes, the Uniform Guidance applies to both formula and discretionary grants in just the same way that former EDGAR (34 CFR) Parts 74 and 80 did. The only difference is that these regulations are now found in one place. There are some items, such as 2 CFR §§ 200.205 and

205.206, that only apply to discretionary grants and cooperative agreements, not to formula grants. If the type of award is not specified in a particular section, subpart or group of sections, then the requirement applies to all awards.

2. **Question:** Does the Uniform Guidance apply to Title IV of the HEA grants (e.g., Federal Pell Grants, Direct Loans, campus based aid, Federal Supplemental Education Opportunity Grant)? Are there any audit implications for IHEs with regards to these grants?

Answer: Student loans and Pell grants are provided to individual students. The Uniform Guidance applies to institutions receiving grant funds. The Uniform Guidance does not apply to these programs, since they are payouts to individuals. However, the Audit Requirements in Subpart F require that major programs must be included in an audit. These programs could be identified as major programs under the Single Audit requirements and may be subject to additional requirements under the Title IV HEA regulations. The Uniform Guidance audit requirements apply to the first fiscal year of the non-Federal entity starting after 12/26/2014.

Implementation Dates

3. **Question:** What are the implementation dates for the new guidance? (posted 2/5/15; updated 6/25/15 and 3/9/2016)

Answer: The Uniform Guidance applies to all new grant awards and non-competing continuations (NCCs) made on or after 12/26/2014 (see 2 CFR § 200.110). The Uniform Guidance also applies to any administrative actions or supplements made to those awards that were made on or after 12/26/2014.

The Uniform Guidance does not apply to grant awards made before 12/26/2014 (also see answer to next question regarding grants made prior to this date). Similarly, it does not apply to administrative actions and or any supplements made to such awards, even if those actions and supplements are made after 12/26/2014. Funds that carry over to a non-competing continuation (NCC) on or after 12/26/2014 are subject to the new Uniform Guidance. The new carryover rules in 2 CFR Part 200 are consistent with the ED's pre-existing regulations in EDGAR Parts 75 and 76. So there are no substantive changes to the carryover rules for the Department's grantees and subgrantees.

For examples of dates, see tables below.

Table 1: Administrative Requirements and Cost Principles (Example Dates)

Project Period Start Date OR start of FY for formula grants	Action	Action Date
1/1/2015	New award	1/1/2015
7/1/2014	Administrative action (including a time extension) or supplement	12/30/2014
10/1/2014		7/20/2015 (or any date within the budget period or FY)
7/1/2014	Non-competing continuation (NCC) or otherwise adding a budget period at the end of the project period.	7/1/2015
10/1/2014	Non-competing continuation (NCC) or otherwise adding a budget period at the end of the project period.	10/1/2015
7/1/2014	Carry over of funds ¹ from previous budget period of a discretionary grant or FY of a formula grant	10/1/2015 for formula grants; any time after 12/26/2014 for discretionary grants

Indirect Cost Rates (ICRs)

Grantees must manage their ICRs in compliance with the Uniform Guidance, starting at the beginning of the first fiscal year following 12/26/2014. See Table 2. Indirect Costs.

¹ EDGAR §76.710: Obligations made during a carryover period are subject to current statutes, regulations, and applications. Once funds are carried over to the subsequent budget period, those funds are subject to the requirements of the NCC. This eases burden on a grantee because it won't have to account separately for funds made available in two fiscal years. Once the NCC is awarded, the new requirements apply to all funds made available under the grant, regardless of whether the funds are new or carried over from the prior budget period.

Table 2: Indirect costs

Beginning of Grantee's Fiscal Year	Uniform Guidance Indirect Costs Requirements apply	Proposal due for new rate under new guidance	Request due for extension of current rate for up to 4 years
January 1, 2015	January 1, 2015	June 30, 2015	April 30, 2015
July 1, 2015	July 1, 2015	December 30, 2015	October 30, 2015
October 1, 2015	October 1, 2015	April 30, 2016	February 28, 2016

Audits

Auditors and grantees must comply with the Uniform Guidance, starting with the audit of the recipient's first fiscal year starting on or after 12/26/2014.

Table 3: Audits

Beginning of Grantee's Fiscal Year	Uniform Guidance Audit Requirements apply	The First audit period subject to 2 CFR Part 200, Subpart F, ends on	First Audit that is subject to the 2 CFR Part 200, Subpart F, must be submitted on
January 1, 2015	January 1, 2015	December 31, 2015	September 30, 2016
July 1, 2015	July 1, 2015	June 30, 2016	March 31, 2017
October 1, 2015	October 1, 2015	September 30, 2016	June 30, 2017

Procurement

The Uniform Guidance regulations authorize all non-Federal entities to delay implementation of the procurement requirements in 2 CFR 200.317 to 200.326 for two fiscal years after the regulations would otherwise apply to a grant ([see Federal Register notice 80 FR 54407, published on 9/10/2015](#)). Therefore, if a non-Federal entity's fiscal year begins on January first, that entity's procurement procedures will not have to comply with the Uniform Guidance until January 1, 2017.

- Question:** We understand that the Uniform Guidance will apply to grants that will be awarded to States in July 2015 under forwarded funded formula grant programs such as Title I of the Elementary and Secondary Education Act and Part B of the Individuals with Disabilities Education Act. We also understand that grants under those programs made prior to December 26, 2014, are subject to 34 CFR Part 80 and OMB Circular A-87 (2 CFR Part 225) rather than the Uniform Guidance. Most States, however, will still, as of July 2015, have unobligated balances of funds awarded to them under forward funded formula grant programs in July 2014. Some States may still have unobligated balances of funds awarded to them under forward funded formula grant programs in July 2013. Does this mean that States will have to apply the Uniform Guidance to forward funded formula grants awarded on July 1, 2015, and 34 CFR Part 80 and OMB Circular A-87 to the unobligated funds from forwarded funded formula grants awarded on July 1, 2013 or July 1, 2014? (posted 6/25/15)

Answer: You are correct that the Uniform Guidance applies to grants awarded on or after December 26, 2014. Grantees, however, have flexibility to avoid the challenges of trying to apply two sets of rules to funded activities that are supported by grant awards made prior to December 26, 2014,

which are subject to the old rules, and grant awards made on or after that date, which are subject to the Uniform Guidance. OMB has addressed this very issue:

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.

Source: [Frequently Asked Questions for the Uniform Guidance at 2 CFR Part 200](#) (February 12, 2014) (emphasis supplied).

States, therefore, have the flexibility to apply the Uniform Guidance to all of the grant funds it receives from the Department under a forward funded formula grant program, those awarded in July 2015, and those awarded in July 2013 and July 2014, prior to the effective date of the Uniform Guidance. We also note that, under 34 CFR 76.710, carryover funds are subject to the regulations in effect during the carryover period. As a result, even without the flexibility provided by OMB, forwarded funded formula grant program funds awarded prior to the applicability of the Uniform Guidance would, once they became carryover funds on October 1, 2015, be subject to the Uniform Guidance.

In light of the flexibility noted above, however, States can begin to apply the Uniform Guidance to forward funded formula program funds in July 2015, and will thus be able to avoid having to apply two sets of rules to funds awarded under a single grant program for any period of time. We note that States, using this flexibility, could also apply the Uniform Guidance on July 1, 2015, to State-administered formula programs that are funded on a current year basis rather than forward funded. Finally, States that choose to apply the Uniform Guidance to grants awarded prior to December 26, 2014, should inform their subgrantees that they also should comply with the new requirements in the Uniform Guidance.

Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards

Grantee Risk

1. **Question:** Where is the reference to high risk designation?
(posted 2/5/15; updated 3/12/15)

Answer: The Uniform Guidance does not include the term “high risk.” However, under 2 CFR § 3474.10, the Department may impose high risk conditions on a grantee or a particular grant in appropriate circumstances.

Historically, the Department used EDGAR 74.14 and 80.12 to impose high risk designations to specific grants and grantees. The requirements found in 2 CFR §§ 200.205 and 200.207 for reviewing risk and assigning specific conditions, respectively, are very similar to those formerly found in EDGAR. In accordance with 2 CFR § 3474.10, the Department and pass-through entities, such as SEAs, will use the standards and requirements found in 2 CFR §§ 200.205 and 200.207 to identify high risk conditions and assign specific conditions.

2. **Question:** What is the purpose of a risk assessment on formula grantees, if it does not impact receipt of an award or the amount of the award?
(posted 2/5/15)

Answer: Conducting risk assessments of grantees helps ensure that potential risks are identified and appropriate monitoring is established to mitigate those risks. If the identified risks are significant, the SEA can impose specific conditions under 2 CFR § 200.207 during the course of the award and, in appropriate circumstances, designate those conditions as “high risk” conditions under 2 CFR § 3474.10.

Subpart D – Post Federal Award Requirements

Performance Measurements

1. **Question:** Will the performance measures required by Department of Education program offices be revised to address the requirements of the Uniform Guidance?
(posted 3/12/15)

Answer: Program Offices are responsible for developing performance measures to effectively address their statutory requirements. The program measures currently used by the Department program offices comply with the Uniform Guidance requirements. In the future, the program offices may revise and develop program measures to address 2 CFR § 200.301. Any new performance measures, or changes to existing performance measures, will be announced to the public prior to the changes being implemented. As has been the case in the past, program office staff is the best source of information on performance measures for the specific grant programs that they administer.

Procurement

2. **Question:** Do the Procurement Standards in the Uniform Guidance, 2 CFR § § 200.218-200.226, apply to all types of Federal grant awards, both formula and discretionary? And to goods as well as services?
(posted 3/9/2016)

Answer: The procurement standards in the Uniform Guidance apply to procurement of goods and services to all Federal grant funds awarded through both formula and discretionary grants. This includes funds awarded by the Department as grants or funds awarded to a pass-through entity, such as a State educational agency, for subgrants. Grantees and subgrantees that are not States must follow the procurement standards set out in the Uniform Guidance in 2 CFR § § 200.218-200.226. See 2 CFR § 200.217.

These grantees and subgrantees must also follow their “own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards” set out in the Uniform Guidance. See 2 CFR § 200.218(a) and Question 3 under Implementation Dates, above.

States must follow their own procurement procedures when procuring goods and services with non-Federal funds. See 2 CFR § 200.217. States, however, must also comply with 2 CFR §§ 200.222 and 200.226.

3. **Question:** There are significant new requirements for procurement. How much will this impact the procurement practices of grantees?
(posted 2/5/15; updated 2/19/16)

Answer: Most of the procurement requirements in the Uniform Guidance are transplants from the former regulations in EDGAR Part 80 and OMB Circular A-102; therefore, we do not expect that States or school districts will need to make significant changes to their procurement procedures.

Nonprofit entities, institutes of higher education, and other organizations that were subject to former EDGAR Part 74 may have to make more changes to their procurement practices; however, OMB has established a two-year grace period before the new procurement procedures are required to be implemented by all entities except States. We believe that this grace period will minimize the burden on those entities that may have to make significant changes to their procurement practices. The new requirements are designed to ensure that all grantees meet very basic standards of integrity in the procurement processes, including the same basic elements of competition and transparency that apply to procurements by governmental entities.

4. **Question:** The new requirements for procurement require negotiating profit levels for certain contracts. How will this impact the procurement process?
(posted 2/5/15)

Answer: The requirement to negotiate profit levels only applies to procurement of contracts that exceed the Simplified Acquisition Threshold of \$150,000 (requiring the recipient to perform a cost or price analysis) or where there was no price competition. The new procurement requirements discourage procurement of contracts through procedures that do not result in price competition and contracts in excess of \$150,000 deserve cost or price analyses to ensure that the recipient does not pay excessive costs for big contracts.

5. **Question:** To what extent do the new uniform administrative requirements align with the Federal Acquisition Regulation (FAR)? Can FAR be used as the prevailing guidance where there are questions?
(posted 2/5/15)

Answer: The Federal Acquisition Regulation (FAR) establishes the rules and requirements that Federal agencies must follow when procuring goods and services. The Uniform Guidance, by contrast, establishes requirements that must be followed by grantees when procuring goods and services needed to carry out a Federal grant or subgrant. The Uniform Guidance, like the FAR, is designed to ensure that procurements involving Federal funds are conducted with integrity, fairness,

and openness. However, procurement issues that arise in carrying out Federal grants must be resolved on the basis of the requirements set out in the Uniform Guidance and the recipients' written procurement policies rather than the FAR.

6. **Question:** How will companies that do business with school districts and SEAs be impacted by the changes in the Uniform Guidance?
(posted 2/5/15)

Answer: The Uniform Guidance generally consolidates and streamlines grants administration regulatory language from eight OMB circulars into one consolidated set of guidance in the Code of Federal Regulations. The consolidation of guidance provides more efficient and consistent regulatory provisions for all types of grantees, including State or Local governments (SEAs and LEAs), non-profit organizations, and institutions of higher education.

The provisions are almost identical to longstanding requirements in either EDGAR Part 74 or 80, depending upon which version of these regulations were used in 2 CFR Part 200 by the Council on Financial Assistance Reform. Because there is so much consistency between the Uniform Guidance and prior the Department regulations, we do not expect any dramatic changes in the way companies do business with LEAs and SEAs, except in the few places where substantive changes were discussed in the interim final regulations published on December 19, 2014. The following link provides a side-by-side comparison of the prior and new guidance: [Administrative Requirements Comparison Chart](#).

7. **Question:** Please explain under what circumstances profit will be negotiated for contracts with K-12 districts/states.
(posted 2/5/15)

Answer: Negotiating profits will be governed by contracting rules established by the non-Federal entity providing the contract, which at a minimum must meet the requirements of 2 CFR 200 §§ 200.317 – 200.326. In general, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds, but must include in contracts funded under Federal awards the standard contract clauses specified in § 200.326 and Appendix II to Part 200.

8. **Question:** Will informal product and price comparisons be accepted as a competitive comparison (and therefore, not be subject to profit negotiations)?
(posted 2/5/15)

Answer: OMB created new flexibilities permitting grantees to establish more informal procurement procedures for micro purchases. The other procurement methods are not significantly changed from the requirements in EDGAR Parts 74 and 80. See, for SEAs, 2 CFR § 200.317 and for all other non-Federal entities, including subrecipients, 2 CFR § 200.318.

9. **Question:** Will contracts using federal funding require greater emphasis on outcomes and performance than in the past? If so, will you be giving guidance on what "performance" means?
(posted 2/5/15)

Answer: The Uniform Guidance does place increased emphasis on the substantive outcomes and performance of grants than has been the case in the past. See, for example, 2 CFR § 200.301.

Grantees, in obtaining services from vendors needed to implement their grant, will need to ensure that the timeliness and quality of the work provided by their contractors will allow the grantee to meet the performance standards that apply to its grant. Contractors working with grantees, therefore, may see greater emphasis on outcomes and performance than they have in the past.

ED will continue to effectively evaluate and measure the successful completion of federally funded projects, in accordance with performance and financial monitoring and reporting outlined in 2 CFR Part 200 and the regulations in the Education Department General Administrative Regulations in title 34 of the CFR. If the Department establishes performance requirements for discretionary grant competition, those requirements will specify the performance elements that will be used to measure performance. As always, grantees are responsible for ensuring that contractors perform as required under their contracts.

10. **Question:** Does the guidance impact vendors' ability to play a role in helping to draft specifications for Requests for Proposals (RFPs)?
(posted 2/5/15; updated 3/9/2016)

Answer: Contracts funded under a Department grant to an SEA must follow the requirements that the State uses for its non-Federal procurements, as stated in 2 CFR § 200.317, all other non-Federal entities, including subrecipients of a State, must follow the requirements 2 CFR § 200.318. For non-Federal entities, including subrecipients, 2 CFR §200.319 specifies the competition requirements for procurements and § 200.220 specifies the procurement methods that recipients must incorporate into their procurement procedures. A vendor that is a contractor involved in the development or drafting of specifications requirements for an RFP has an organizational conflict of interest that would exclude the vendor from competing for the resulting procurements under the procurement requirements in 2 CFR Part 200.

Please note that the Department established new contract competition flexibilities for certain procurements related to projects proposed for funding under the Department's discretionary grant competitions. See EDGAR § 75.135. Under these procedures, an applicant can use the relatively simple small purchase procedures authorized under 2 CFR § 200.320(b) to select in a single competition a contractor to both help the applicant prepare its application and provide project services if the grantee is selected for funding. This flexibility is limited to cases where the contractor would provide data collection, data analysis, or evaluation services, or another essential service needed to meet a statutory, regulatory, or priority requirement related to the competition and the contractor is identified in the application. Also, if the applicant is contracting for sites to conduct proposed project activities, the applicant does not need to run a competition to select the sites.

In addition, the Department understands that a grantee may need to inform itself about the capacity and capability of potential contractors in order to prepare an RFP. In the course of doing so, the grantee may contact a number of vendors to collect information necessary for developing the RFP, as long as the LEA poses its request for information broadly so that any potential vendor has an opportunity to provide input. Soliciting input from one or two vendors would, in most cases, create an unfair competitive advantage.

11. **Question:** What does the phrase "tangible personal benefit" in 2 CFR 200.318(c)(1) mean?
(posted 3/9/2016)

Answer: The phrase “tangible personal benefit” is new language added to the general conflict of interest section of the general procurement standards that existed previously under the EDGAR 80.36(b)(3) and OMB Circular A-102. The language was expanded from just “financial or other interest in” to also include “or a tangible personal benefit from” a firm considered for a contract. This new language stresses the importance of ensuring that employees who select, award, and administer contracts supported by a Federal award are free from any real or apparent conflict of interest, including financial interests and other non-financial benefits that result in a personal benefit for the employee (such as improved employment opportunities, business referrals, political influence, etc.).

12. **Question:** How will pricing transparency increase as a result of these changes?
(posted 2/5/15)

Answer: The Uniform Guidance does not appear to have an impact on “pricing transparency.”

13. **Question:** Are companies’ variations in per-student pricing permissible, depending upon whether they are doing business with a large district or a small one?
(posted 2/5/15)

Answer: The Uniform Guidance does not appear to have an impact on the permissibility of variations in per-student pricing.

14. **Question:** When are the model “terms of service” for education companies expected to be released?
(posted 2/5/15)

Answer: We are not clear about what is meant by “terms of service.” The Department does not plan to issue model requirements that recipients could use in contracts with education companies. As stated in the Uniform Guidance, each non-Federal entity is solely “responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.” See 2 CFR § 200.318(k).

15. **Question:** Can you clarify what is allowed under 200.319(a)(6), regarding “an equal” product?
(posted 3/9/2016)

Answer: The request for proposals can identify a product by name and its specifications as an example, but must consider any product that has the same specifications. For example, if a grantee is going to purchase activity monitors, the request can state it is looking for a monitor, similar to fitbit, which is worn on the wrist; measures heart rate; steps walked and ran; can sync to an app; and is programmable. All bids that achieve those specifications must be considered for purchase.

16. **Question:** How can we fully comply with 200.319(a)(6), if we need to purchase a particular brand and a similar brand will not suffice? For instance, we need to purchase a specific brand of computer equipment so it can be integrated into our existing system.
(posted 3/9/2016, updated 3/17/2016)

Answer: The Uniform Guidance does not require a grantee to abandon a technology or instructional approach just because a similar technology or instructional approach would cost less. The Department also understands that in some limited situations, specifying a “brand name” may not restrict competition under 2 CFR 319(a). If a grantee has already invested in a particular infrastructure or instructional framework, specifying a “brand name” compatible with the infrastructure or framework may be appropriate. However, the procurement regulations in 2 CFR 200.323 require the grantee to compete to find the lowest cost supplier of the technology or instructional approach.

Grantees that engage in pilot trials of educational technologies or instructional materials that then wish to “scale up” are not exempted from competitive procurement. Procurement transactions must be conducted in a manner providing full and open competition, as described in 2 CFR 200.319. As such, the grantee must use a competitive process, as described in 2 CFR 200.320(d), unless the educational technology or instructional materials is truly only available from one source.

If a particular software or hardware is required because of the grantee’s existing technology infrastructure or instructional framework and the hardware or software is truly only available from one source, noncompetitive procurement may be appropriate. The grantee must maintain records documenting the rationale for why sole sourcing was used (2 CFR 200.318(i)).

In cases where a grantee selects a product supplier through a sole source contract because that supplier is the only contractor that can meet the requirements for the unique product, the grantee needs to negotiate profit separately with the supplier because there was no price competition for the product. If the procurement exceeds the simplified acquisition threshold, the grantee must conduct either a price or cost analysis of the contract. See 2 CFR 200.323.

17. **Question:** In order to satisfy the requirement for small purchases for which the purchaser must “get rate quotations from an adequate number of qualified sources,” can an organization use an internet marketplace where individual sellers post their products and compete for purchasers, such as Amazon.com, Ebay, Etsy, etc?
(posted 3/9/2016)

Answer: The suitability of these marketplaces depends on the organization’s institutional purchasing policy. If the organization is selecting a product or process that is offered over the internet at a set price by a number of potential contractors that advertise on one or more of these sites and the organization’s policy authorizes selection of products or services in these circumstances, the organization could select the product or service at the set price that offered the best price. The organization would have to document that it considered an adequate number of internet sources for the product.

18. **Question:** 2 CFR 200.318(k) provides as follows: “(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts.” Are

grantees required by this provision to establish a bid policy?
(posted 3/9/2016)

Answer: Under 200.318(a), non-Federal entities must have documented (written) procedures regarding procurement transactions that address all applicable law. Thus, under 200.318(k), the non-Federal entities must have written procedures to address issues, such as source evaluation, protests, and claims.

19. **Question:** Micropurchases may be made without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. What documentation or process is required to demonstrate that the price is reasonable?
(posted 3/9/2016)

Answer: A documented review of web sites would be sufficient to procure the product.

Subaward monitoring and management

20. **Question:** Are grantees required to assess risks of subgrantees before awarding subgrants?
(posted 2/5/15)

Answer: Risk assessments are required; however, there is no requirement for grantees to assess risks before making subgrants. Under the Uniform Guidance, grantees must assess risks to inform monitoring priorities. However, grantees have discretion to make risk assessments before awarding subgrants. The procedures for assessing risk should be documented and included as part of a grantee's written internal controls. Factors for grantees to consider when developing their risk tools can be found at 2 CFR §200.331. The Department considers pre-award risk reviews for subgrantees to be a best practice.

21. **Question:** Does the Uniform Guidance require risk assessments for subawards to be conducted annually?
(posted 3/9/2016)

Answer: The Uniform Guidance (2 CFR 200.331) does not require a specific interval for conducting each risk assessment. The internal controls (2 CFR 200.303), the initial risk assessment, and monitoring plan work together to inform the best interval for conducting a risk assessment for each subgrantee. While the UG does not require a specific interval for conducting risk assessments, it is prudent to do so on an annual basis. At the very least it should be conducted when individual monitoring plans are developed, with more frequent intervals for subgrantees showing a higher level of risk. States must consider their responsibility to maintain strong internal controls that ensure compliance with regulations, financial stability, and performance when managing subawards.

22. **Question:** Is the risk assessment for both contractors and subgrantees?
(posted 2/5/15)

Answer: Generally yes; however, risks posed by contractors are addressed differently than those posed by subgrantees.

The Uniform Guidance requires grantees to assess risks posed by subrecipients (i.e., subgrantees). Even if a State uses a contract to award financial assistance to an entity that the Department considers a subgrantee, the risks posed by that entity must be assessed. See 2 CFR §§ 200.330 and 200.331. Grantees must assess risks of a subgrantee not complying with Federal statutes, regulations, and the terms and conditions of the subawards. Risks may be posed by weak internal controls, including inadequate financial systems. The risk assessment requirements, monitoring requirements, and specific conditions for subawards are identified in 2 CFR § 200.331.

While the Uniform Guidance does not use the term “risk assessment” to describe the review that grantees must give potential contractors, the Uniform Guidance requires grantees and subgrantees to determine whether each potential contractor has the ability to perform successfully under the terms and conditions of a proposed procurement and consider the contractor’s integrity, compliance with public policy, record of past performance, and financial and technical resources. See 2 CFR § 200.318(h). While not described as a risk assessment, consideration of these issues is, in essence, a risk assessment.

Procurement standards are identified in 2 CFR §§ 200.317 through 200.326.

23. **Question:** Are recipients of formula grants required to complete risk assessments on each subgrantee?
(posted 2/5/15; updated 3/9/2016)

Answer: Yes, see 2 CFR §200.331 for those requirements. Grantees must assess all subgrantees for risk. OMB has revised its regulations regarding the Federal Awardee Performance and Integrity Information System (FAPIIS) (see [Federal Register Notice 80 FR 43301, published 7/22/2015](#)). We expect that grantees and subgrantees soon will be able to use FAPIIS to assess risks posed by subgrantees.

24. **Question:** How will State Education Agencies (SEAs) be able to conduct risk assessments on all Local Education Agencies (LEAs)?
(posted 2/5/15)

Answer: Section 200.331 of the Uniform Guidance does not mandate how grantees must conduct risk assessments on subawards. During the first year of implementation, we expect that grantees will develop risk assessment systems to establish monitoring priorities and SEAs have discretion to establish risk assessment systems that assess risks before making subgrants. We expect that those systems would be in place before States receive their first formula-grant awards and allotments on July 1, 2015.

25. **Question:** Regarding the requirements for a subaward notice in §200.331 Requirements for Pass-through entities, the Department received several clarification questions:
(6/25/15)

- a. **Question:** What is the difference between §200.331(a)(1)(vi), (vii), and (viii)?

Answer: Paragraphs (a)(1)(i)-(xiii) describe the information that a State pass-through entity must include in its award of a subgrant under a State-administered program. Because the listed information is required for each subgrant, the information provided to the subgrantee depends upon the program under which the subgrant is being awarded and the particular action taken in the award document. The following lists each of the paragraphs, followed by an explanation of what the item requires:

(vi) Amount of Federal Funds Obligated by this action. This is the amount of funds obligated by the State grantee in this award notice. At times, this line will not apply. For example, if the notice is being sent to the subgrantee to approve a change in personnel or to authorize some other administrative change to the subgrant. If that is the case, the State can just enter “N/A” on this line of the award document. In most cases, this will be the initial allotment to the subgrantee. In some cases, this might be an amount awarded to a subgrantee as the result of a re-allotment of funds.

(vii) Total Amount of Federal Funds Obligated to the subrecipient. This is the cumulative total amount awarded by the State, before the current amount was awarded, to the subrecipient under the same program and from the same fiscal year (FY) appropriation. For example, if the State had made an initial award to the subgrantee of \$650,820 in FY 16 and, due to re-allotments, awarded to the subgrantee a re-allotted amount of \$85,000 in FY 16 with this award, this line would list \$650,820.

(viii) Total Amount of the Federal Award. This item requires the State pass-through entity to inform the subgrantee of the total amount of funds awarded during that fiscal year. Using the prior example, this line would show \$735,820 (\$650,820 + \$85,000) as the total amount awarded.

- b. **Question:** What are the dates referenced in §200.331(a)(1)(iv)?

Answer: Paragraph (iv) refers to the date when the Department made the award to the pass-through entity (i.e., the date specified above the signature of the authorized representative in block 10 of the Grant Award Notification (GAN) issued by the Department). The GAN is issued on the date that it is signed by ED’s authorized official. The State would pull this date from the GAN, which the State has in its possession. States should have procedures to notify State program officers of this amount so it can be included in the award to the subgrantee. In addition, the State must specify, in its subgrant notice, the start and end dates of the period during which the subgrantee may obligate funds. Under most programs that authorize the award of subgrants, States would establish beginning and end dates concurrent to the Federal fiscal year during which the subaward was made, (e.g., July 1, 2015-September 30, 2016 for forward-funded programs, or October 1, 2015-September 30, 2016 for programs funded from current appropriations).

- c. **Question:** Some programs allow a 12 month period to obligate funds that are still remaining at the end of the 15 month funding period, which results in having two grants open at the same time. A grantee’s process may be to spend old money first and not assign a subrecipient’s funds from a particular year. For the subrecipient award letter, what FAIN should be used?

Answer: In 2 CFR 200.331 it states, “When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and sub-award.”

This gives pass-through entities some flexibility to provide information that is the best estimate if a precise amount is unknown at the time the subaward is made. In the situation where carry over from a previous year is used during the grace or carryover period, alongside new funds, the pass-through entity is using funds from two different Federal grant awards. Therefore, the pass-through entity would be in compliance by identifying both Federal awards as being the source of funding for activities during the award period.

26. **Question:** Are the new certifications required in 2 CFR 200.415 required when a grantee issues an advance payment. Can the grantee request the certification when subgrantees submit their expenditure report? Or, must we require the certification when we issue the Grant Award? (posted 3/9/2016)

Answer: The requirement to certify vouchers requesting payments applies to subgrantees requesting a payment and must be provided with every request for payment under a subgrant, in the same way that the Department requires all grantees and cooperative agreement recipients to certify all payment requests submitted to the Department. This result is based on the definition of “Federal award” in §200.38(a)(1), which provides, as relevant to this question, Federal award means “The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in §200.101 Applicability.” 2 CFR 200.38(a)(1).

Subpart E - Cost Principles

Blended funds and allocable costs

1. **Question:** What is meant by the term “blended”? Is that the same as comingling of funds? (posted 2/5/15)

Answer: Comingling of funds is different than blended funds.

Comingled funds:

A grantee (or subgrantee) comingles funds when Federal funds received for a particular grant are deposited to an account that also contains other Federal or non-Federal funds and fails to maintain the internal controls needed to separately track the funds for that grant. Because grant funds cannot be traced to determine how they are expended, there is no way to determine if the comingled grant funds were expended on allowable costs.

“Blended” funds:

When a grantee (or subgrantee) gets funds from more than one program or agency to conduct the same or closely related activities under a single grant or multiple grants, §200.430(i)(7) authorizes the grantee to account for the combined use of the Federal funds if certain conditions are met. The Uniform Guidance calls this “blended” funding and a grantee would establish a single cost accounting code to account for any blended funds.

As a procedural matter, the grantee must obtain prior approval to charge the costs to a single cost objective for blended funding purposes and that approval must be authorized by all agencies that fund the combined activities. For example, if ED, HHS, and Labor jointly fund a single grant, the grantee could, with the prior approval of all the funding agencies, charge the costs to the same accounting code and not have to separately track the funds provided by each agency. Not all situations are as simple as this example; therefore, there are other conditions that grantees need to understand. In cases where some project activities cannot be supported under all programs funding a grant, only those activities that can be funded by all programs can be treated as blended funds.

Example: A project is supported by three agencies (A, B, and C) and the project involves four activities. If the first activity is allowable under all funding sources, the recipient could ask to account for those activities under a single accounting code because funds provided by any one of the agencies could be charged for those costs. The recipient could use a single account code for these activities if all three agencies approve the blended accounting. If the second and third activities are allowable under the program funds granted by agencies A and B but not agency C, the grantee could, with permission, set up a blended-funding accounting code for those activities but could charge only the funds made available by agencies A and B for those costs. If the fourth activity is allowable only under agency C's program, the grantee could charge the costs of that activity only to agency C and could not blend those funds with funds provided by any of the other agencies.

2. **Question:** Is it allowable to purchase an item (equipment) through one project's funds, and allow it to be used by a second project?
(posted 3/12/15)

Answer: This is an issue that should be addressed in the grantee or subgrantee's system of internal controls. The project for which the equipment was purchased must have primary access to, and use of the equipment. However, when not being used for that project, it can be used for another Federally-funded project. If a grantee wishes to use equipment for two projects and wants to fund the equipment purchase from two separate Federal grants, the direct charge to each grant must only reflect the relative proportionate share of acquiring the equipment; i.e., if each grant paid for half the cost of acquiring the equipment, then each project could use it equally.

However, if the grantee has authorization from the respective Federal funding sources and it is agreed that an equipment purchase serves the same cost objective of both grants, then the grantee may establish a "blended" accounting code for the purchase.

Indirect Costs

3. **Question:** How long can grantees charge the temporary ICR?
(posted 2/5/15)

Answer: The temporary rate predates the new indirect cost flexibilities in the Uniform Guidance. Generally, a grantee can charge the temporary rate up to 90 days after the grant award date. However, if the grantee does not submit an ICR proposal to the Department within that 90 days, the grantee can no longer charge indirect costs to the grant until the grantee obtains a negotiated ICR

from ED. If the grantee submits its ICR proposal on a timely basis, then it may continue charging its grant at the temporary rate until it obtains a negotiated rate.

4. **Question:** Must a grantee honor the Federally negotiated rate for a subrecipient? For a contractor? (posted 6/25/15)

Answer: The answer to this question differs, based on the substance of the agreement, which identifies either a subrecipient receiving a subaward or a contractor receiving a contract. 2 CFR 200.330 distinguishes between these two.

A grantee must honor a subrecipient's negotiated rate, as per 2 CFR 200.331 (a) (4), which states; "An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this Part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs paragraph (b) of this Part." Furthermore, the Office of Management and Budget (OMB) has address this issue in their FAQs, by stating; "If a subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used." However, the rate can be negotiated if both parties are amenable to it. Please note that reimbursement of indirect costs is subject to the availability of funds and statutory and regulatory restrictions, including indirect cost rate limitation.

A non-federal entity awarding contracts under a Federal assistance award must assure that the contracted services are within the 2 CFR 200.330 requirements. A non-federal entity will have to determine the reasonableness of cost or price of any contracted item, either by review of cost elements or price. The indirect costs are one of the elements that may need to be reviewed to determined overall reasonableness. If a potential contractor asks the non-Federal entity to accept the contractor's Federally recognized indirect cost rate to pay for indirect costs under the contract, the non-Federal entity is not bound to accept the contractor's Federally-recognized rate; it must make an independent decision about whether that rate is reasonable under the circumstances surrounding the contract.

Applicability based on recipient type

5. **Question:** Are the cost principles in the Uniform Guidance for all types of recipients? (posted 2/5/15)

Answer: Generally, yes the cost principles are the same for all types of recipients: State, local, and Indian tribal governments; nonprofit organizations; and institutions of higher education. Where rules are entity-specific, the section or paragraph that specifies a different principle for one type of entity makes that applicability clear. Most of the cost principles that apply to only one type of entity are those regarding indirect costs. See, for example, Appendices III-IX.

Allowability

6. **Question:** Does the Department have any guidance for developing written procedures for determining allowable costs?
(posted 6/25/15)

Answer: The Uniform Guidance places emphasis on strong internal controls. In accordance with 2 CFR 200.302, all grant recipients must have financial management systems that include written procedures for ensuring all expenditures conform to the terms and conditions of the grant as well as the Uniform Guidance Cost Principles. The Department has developed additional training resources on [internal controls](#) that assist entities in designing and assessing the effectiveness of such written procedures.

Compensation – personal services

7. **Question:** What guidance does the Department have for the types of documentation and internal controls that are necessary to take advantage of the new flexibilities for tracking time and effort? Are there examples of what these flexibilities look like?
(posted 2/5/15; updated 6/25/15)

Answer: The new Uniform Guidance under 2 CFR 200.430(i)(5) gives State, local, and tribal governments the flexibility to establish a substitute method of allocating salaries and wages to Federal awards. These substitute systems must be approved by the cognizant agency for indirect cost, which is the Department of Education for all State Educational Agencies (SEAs).

The Department's efforts to reduce burden and increase flexibility in the area of time and effort reporting predate the Uniform Guidance. In 2012, the Department issued guidance to the Chief State School Officers that can be found at this link: [Letter to Chief State School Officers](#). This guidance provides parameters upon which SEAs and LEAs can establish substitute systems for time and effort reporting for their employees.

This guidance is still valid. At the current time, we do not have examples or guidance that cover all the flexibilities included under the Uniform Guidance. However, the Department is reevaluating the 2012 guidance and considering whether additional guidance and examples may be useful.

8. **Question:** If grantees propose new ways for tracking time and attendance, especially in the case of blended funds, what will be ED's response?
(posted 2/5/15; updated 6/25/15)

Answer: The Department will review all proposals for substitute time and effort systems based on the current Department guidance regarding review of alternative time and effort systems and 2 CFR 200.430(i)(5).

9. **Question:** What are the new requirements for time and effort reporting? How will new time and effort requirements impact split-funded positions? Will tracking logs need to be changed?
(posted 3/12/15; updated 6/25/15)

Answer: The Uniform Guidance does not require any grantee to change their current system for time and effort reporting. We know that each grantee's system is unique. The Uniform Guidance offers new flexibilities for time and effort tracking in an effort to reduce burden, but requires a strong internal controls program to ensure accountability. While the Department reevaluates its existing guidance and develops training resources, grantees are encouraged to contact the Department to collaboratively develop substitute time and effort tracking systems.

10. **Question:** Do alternative (substitute) time distribution systems need to be approved by the Department? What are the certification requirements?
(posted 6/25/15)

Answer: Yes, as stated in response to a previous question, the Uniform Guidance requires substitute systems to be approved. Any SEA that would like to establish a substitute system based on the 2012 guidance issued by the Department or based on the additional flexibilities in the Uniform Guidance should contact Frances Outland, Director of the Department's Indirect Cost Group in the Office of the Chief Financial Officer, at 202-245-8082.

Conferences and travel

11. **Question:** What has changed regarding food at conferences?
(posted 2/5/15)

Answer: The policy guidance the Department provided to grantees regarding conferences in June, 2012, is consistent with the new requirements in the Uniform Guidance, which states that conference "hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award." See 2 CFR § 200.432. This statement in the Uniform Guidance is entirely consistent with the policies stated in the Department guidance regarding the charging of food costs to a grant. The Department guidance on conference costs can be found at this link: [ED Guidance on Conference Costs](#). The guidance clarifies that providing meals at conferences is allowable only when it is reasonable and necessary to the completion of actual work. A working lunch may be a legitimate expense if the conference must conduct sessions at that time to keep the number of conference days to a minimum. Snacks and other meals typically do not meet the reasonable and necessary standard, because these costs can be purchased by attendees using non-grant funds and the snacks are not essential to the objectives of the conference. The only difference between the Department guidance and the Uniform Guidance regarding conference costs are addressed in the following Q & A.

12. **Question:** What does the Uniform Guidance say about dependent care at conferences?
(posted 2/5/15)

Answer: A grantee that hosts a conference can charge the grant for the costs incurred in researching dependent care, if that care is required for a conference participant. The actual dependent care cannot be charged to the conference by the host. However, if a grantee sends a person to attend a conference and that attendant's dependent care costs increase as a result of that attendance, then the costs that exceed the attendant's normal dependent care costs can be charged to the grant of the grantee that sends the attendant.

13. **Question:** The increase in the dollar threshold for the Single Audit requirement (\$500,000 to \$750,000) means there will be additional subgrantees that will not require a Single Audit. An alternative for monitoring purposes is agreed-upon-procedures. The Uniform Guidance states, in §200.425(c)(2), the cost of agreed-upon-procedures is allowable if the pass-through entity paid for and arranged it. Does that mean the grantee has to pay for it and arrange for an independent auditor/s to conduct the agreed-upon-procedures engagement for subgrantees?
(posted 6/25/15)

Answer: The requirements of §200.245 have to be met in order for a pass-through entity to charge the costs of agreed-upon procedures to its Federal grants. Assuming that the costs are allocable to specific grants, those costs can be charged directly to a Federal grant. If they can't be allocated to specific grants, then they would have to be recovered through the Indirect Cost Rate.

Pre-award costs

14. **Question:** Are grantees allowed to incur pre-award costs within 90 days before an award is made without prior approval from the Department of Education?
(posted 3/9/2016)

Answer: Yes, grantees may incur pre-award costs, as they have in the past. On November 2, 2015; a [Federal Register notice](#) was published, in which ED added the following to [EDGAR Part 75](#), providing the waiver for approval of pre-award costs.

§ 75.263 Pre-award costs; waiver of approval.

A grantee may, notwithstanding any requirement in 2 CFR part 200, incur pre-award costs as specified in 2 CFR 200.308(d)(1) unless—

- (a) ED regulations other than 2 CFR part 200 or a statute prohibit these costs; or*
- (b) The conditions of the award prohibit these costs.*

The addition clarifies for ED's grantees and applicants that we will continue to allow pre-award costs as we had prior to the Uniform Guidance implementation.

Subpart F – Audit Requirements

1. **Question:** Given that the threshold for auditors to report questionable costs is increased to \$25,000, will the Department adopt a similar threshold for program monitoring as well as audit resolution efforts?
(posted 2/5/15)

Answer: Currently, the Department does not have a policy of not making findings below the minimum reportable threshold. Some auditors have made findings on questioned costs well below the former threshold. Generally, if an auditor makes a finding on a questioned cost, the Department will resolve the finding. Currently the Department is assessing the need to have a policy based on the increased questioned cost threshold. In addition, the Department is developing monitoring procedures to ensure that grantees properly account for grant funds, regardless of the level of

expenditures for a particular cost item.

2. **Question:** The Guidance raises the threshold for reporting questioned costs to \$25,000. Does that mean no questioned costs under that threshold will be reported?
(posted 2/5/15)

Answer: The Guidance requires all questioned costs of \$25,000 or more to be reported (2 CFR 200.516(a)(3)). However, auditors have the option of reporting questioned costs of lesser amounts.

Other - Outreach, Forms, Systems

Outreach to Grantees

1. **Question:** What training will be available for grantees?
(posted 2/5/15; updated 3/9/2016)

Answer: The Department launched a Uniform Guidance portal on ED.gov that includes many resources to assist grantees and subgrantees in understanding the Uniform Guidance. It is at the following address: [ED Uniform Guidance Portal](#). It includes links to OMB's resources and to resources developed by ED, including:

- Frequently Asked Questions (FAQs)
- Uniform Guidance Overview Webcast for Grantees
- Information on Audit Requirements, Cost Principles, Indirect Costs, Internal Controls, Procurement, and Risk and Subaward Management
- Crosswalks showing differences between the Uniform Guidance and the OMB Circulars and EDGAR Parts, which it replaces.

If you need assistance beyond the website, please contact your program officer here at ED.

2. **Question:** How much additional time will grantees need to spend on complying with the Uniform Guidance?
(posted 2/5/15)

Answer: The Uniform Guidance requires strong, written internal controls and offers flexibilities that were not previously available to grantees. The new requirements and flexibilities may take time to implement. However, once those procedures are in place, we do not expect that grantees and subgrantees will need more time to comply with the Uniform Guidance than is required under former regulations. More likely, given the new flexibilities available under the Uniform Guidance, the Department's grantees may develop less time-consuming procedures to demonstrate compliance with the Uniform Guidance than were required under prior regulations. The Department will assess the effect of the Uniform Guidance as it is implemented and provide feedback to OMB regarding the effectiveness of the guidance and the extent to which it reduces burden on recipients.

Forms and G5

3. **Question:** How are forms and documents being reviewed and revised?
(posted 2/5/15; updated 6/25/15 and 3/9/2016)

Answer: The Department has updated several standard forms (e.g., GAN attachments and enclosures). The Department Supplemental Form 524 was also updated to distinguish whether the indirect cost rate included in an applicant's budget is a negotiated rate, a de minimis rate,² or a temporary rate. It also includes the required certification language, per 200.415(a).

Program offices are working to revise their own program-specific forms and documents to reference 2 CFR Part 200 instead of EDGAR Parts 74 or 80.

4. **Question:** Will G5 update records to ensure the recipient name is the same as the name found in DUNS, since there is now a requirement that the names match?
(posted 2/5/15)

Answer: The Department is developing procedures to ensure that the award name matches the name that is associated with the DUNS number.

5. **Question:** Per the new regulations, must the required cost-sharing be included on the GAN?
(posted 2/5/15)

Answer: Yes, see 2 CFR § 200.210(a)(10).

6. **Question:** Is the ICR required on the GAN for all awards, including formula grants?
(posted 2/5/15)

Answer: Yes, the requirement is for all Federal awards, as required under 2 CFR §200.210.

7. **Question:** If the ICR is indicated on the GAN, will grantees be required to request a new GAN if the ICR changes during a budget period?
(posted 3/9/2016)

Answer: Grantees are not required to request a new GAN in this case. A GAN clause has been issued by ED to address a change of ICR during a budget period.

GAN Clause:

Reimbursement of indirect costs is subject to the availability of funds and statutory and regulatory restrictions. The negotiated indirect cost rate agreement authorizes a non-Federal entity to draw down indirect costs from the grant awards. The following conditions apply to the below entities.

All entities (other than institutions of higher education (IHE))

The GAN for this grant award shows the indirect cost rate that applies on the date of the initial grant for this project. However, after the initial grant date, when a new indirect cost rate agreement is negotiated, the newly approved indirect cost rate supersedes the indirect cost rate

² Not all grants can use the de minimis rate; training grants and grants that require restricted indirect cost rates cannot use the de minimis rate.

shown on the GAN for the initial grant. This new indirect cost rate should be applied according to the period specified in the indirect cost rate agreement, unless expressly limited under EDGAR or program regulations. Any grant award with an approved budget can amend the budget to account for a change in the indirect cost rate. However, for a discretionary grant award any material changes to the budget which may impact the scope or objectives of the grant must be discussed with the program officer at the Department. See 34 CFR 75.560 (d)(3) (ii) (part 75 of EDGAR).

Institutions of higher education (IHE)

Under 2 CFR part 200, Appendix III, Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), the Department must apply the negotiated indirect cost rate in effect on the date of the initial grant award to every budget period of the project, including all continuation grants made for this project. See 2 CFR Part 200, Appendix III, paragraph C.7. Therefore, the GAN for each continuation grant will show the original indirect cost rate and it applies to the entire period of performance of this project. If the indirect cost rate agreement that is applicable to this grant does not extend to the end of the grant's project period, the indirect cost rate set at the start of the project period must still be applied to the end of project period regardless of the fact that the rate has otherwise expired.