

Implementing the Uniform Guidance



U.S. Department of Education

What's Covered in this Slide Show?

- ❑ Goals of the Uniform Guidance (2 Code of Federal Regulations (CFR) part 200)
- ❑ Department adoption and preparation for implementing the guidance
- ❑ Guided tour of the Uniform Guidance and key changes reflected in it
 - ▢ Focused deeper-dive on selected topics
- ❑ Timeline – when changes impact your grant
- ❑ Resources for technical assistance and training

Uniform Guidance Goals and Key Take-Aways

- ❑ Streamline and consolidate eight existing OMB Circulars
 - ▣ Reduce administrative burden, increase flexibility, and improve outcomes
- ❑ How Uniform Guidance Supports Key Policy Reforms
 - ▣ Emphasis on performance
 - ▣ Efficient use of technology and shared services
 - ▣ Consistent and transparent treatment of costs
 - ▣ Setting standard business processes and data definitions

3

Uniform Guidance Goals and Key Take-Aways

- ❑ How Uniform Guidance Supports Key Policy Reforms
 - ▣ Encouraging family-friendly policies
 - ▣ Strengthening oversight
 - ▣ Targeting waste, fraud, and abuse
 - ▣ Increased flexibility for and accountability by grantees
- ❑ Effective dates for key changes
- ❑ Department providing training at no cost

4

Department Activities in Preparation

- ❑ The Department worked closely with OMB to prepare for implementation of the Uniform Guidance:
 - ▣ New guidance adopted / EDGAR regulations modified
 - ▣ Non-regulatory policies being updated
 - ▣ Training and resources for Department staff and grantees are being developed
- ❑ The Uniform Guidance is now in effect for grants awarded on or after 12/26/2014

5

Organization of the Uniform Guidance

- ❑ Subpart A – Acronyms and Definitions
- ❑ Subpart B – General Provisions
- ❑ Subpart C – Pre-Award Requirements
- ❑ Subpart D – Post-Award Requirements

6

Organization of the Uniform Guidance

(continued)

- ❑ Subpart E – Cost Principles
- ❑ Subpart F – Audit Requirements
- ❑ Appendices III-V and VII – Indirect Cost/Cost Allocation Plans
- ❑ Appendix XI – Compliance Supplement

7

From Circulars to the Uniform Guidance

<u>Grants made prior to 12/26/2014</u>	<u>Grants made on or after 12/26/2014</u>
Circulars A-89, A-102, A-110	Uniform Guidance Subparts B, C and D
Circulars A-21, A-87, A-122	Uniform Guidance Subpart E
Circulars A-133, A-50	Uniform Guidance Subpart F
EDGAR Parts 75 to 99	EDGAR Parts 75-79 and 81-99
EDGAR Parts 74 and 80	Become part of the Uniform Guidance

8

Key Changes

Pre-Award

9

Department of Education Implementation

Grant Award
Notification
(GAN) and
Department
of Education
forms

- Updated the GAN and the forms to align with 2 CFR Part 200:
 - ▣ GAN
 - Includes updated citations
 - Includes indirect cost rate
 - ▣ Forms: Updated Department-wide forms
 - Includes indirect cost rate
 - Includes certification language

10

Definition of Grants and Cooperative Agreements

A Grant by
any other
name is still
a Grant

- ❑ Updated EDGAR Part 77 to reflect definitions in 2 CFR Part 200.
- ❑ EDGAR Part 77 also revised to add definitions of “grant” and “award” so that program regulations can continue to use these terms to cover both grants and cooperative agreements.

11

Risk Assessment

- ❑ The Uniform Guidance requires all Federal agencies to conduct a risk assessment prior to making awards.
 - The Department was conducting these assessments for discretionary grant awards prior to the implementation of the Uniform Guidance.
- ❑ The Department will continue to use the high risk designation under 2 CFR 3474.10(b). The Department will use the standards in the Uniform Guidance to impose specific or high-risk conditions, as appropriate, on grants.

12

Key Changes

Post-Award

13

Performance Measurement

- ▣ The Uniform Guidance focuses on cost-effective practices and achieving performance goals.
 - ▣ The Department is already using OMB-approved standard information collections and does not anticipate significant changes with regard to performance reporting.
 - ▣ The Department already has performance measures in place for all programs which meet the requirements. Any changes proposed to those performance measures will be announced to the public.

14

Key Changes in Post-Award Activities

- ❑ Notable Key Changes:
 - ▣ Greater emphasis on internal controls to ensure compliance and fiscal responsibility;
 - ▣ Enhanced oversight requirements of subrecipients, which includes risk assessment to develop an appropriate monitoring plan and tools;
 - ▣ Enhanced oversight of contracts; and
 - ▣ Greater focus on performance expectations and results

15

Key Changes to Procurement

- ❑ NEW for universities and non-profits: procurement methods in §200.320. §200.317 Procurement: All grantees other than States must follow procurement requirements in §§200.318-200.326.
- ❑ New requirements for oversight of procurement dollars (2 CFR 200.324) include such changes as:
 - ▣ The entity must make available, upon request from the Department or a pass-through entity, technical specifications on proposed procurements to ensure the item or service is for an item in the approved grant application.
 - ▣ The entity must make pre-procurement process documents available if certain conditions exist.

16

Deeper Dive: Procurement Standards

2 CFR Part 200 Subpart D
§200.317 - 326

17

Methods of Procurement (§200.320)

The non-Federal entity must use one of the following:

- ❑ Micro-purchases,
- ❑ Small purchase procedures,
- ❑ Sealed bids,
- ❑ Competitive proposals, or
- ❑ Non-competitive proposals (severely limited).

18

Competition (§200.319)

- ❑ All procurement transactions must be conducted in a manner providing full and open competition
- ❑ Real or perceived unfair advantages must be avoided
- ❑ New change to address real or perceived unfair advantage impacts certain contractors

19

Organizational Conflicts of Interest (§200.319(a))

Section 200.319(a) introduction provides that contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals **must be excluded from competing for such procurements** (this insider information is the very essence of organizational conflicts of interests).

20

Examples of Restricting Competition

- ❑ Placing unreasonable requirements on firms to qualify,
- ❑ Unnecessary experience and excessive bonding,
- ❑ Noncompetitive pricing practices between firms, and
- ❑ Specifying only a “brand name” product instead of allowing an equal product to be offered.

21

Key Changes to Making Subawards

- ❑ Under 2 CFR 200.331, pass-through entities are required to:
 - Provide subaward information to their subrecipients, including the indirect cost rate for the Federal award
 - Perform a risk assessment for the purpose of subrecipient monitoring
 - Verify that every subrecipient is audited (as required by the Single Audit Act)

22

Deeper Dive: Subaward Risk and Monitoring

Information for pass-through entities

Risk is the possibility that an event will occur and adversely affect the achievement of objectives. (GAO – The Green Book)

23

Risk Management



24

Where are the Requirements?

Topic	Pass-through entities
Award Notification	§200.331(a)
Risk Assessment	§200.331(b)
Specific Conditions	§200.207*
High-Risk Designation	§3474.10
Monitoring	§200.331(d)-(e) Subpart F*
Non-Compliance	§200.338*

*Section 200.331 references these sections for requirements.

25

Specific Conditions (§200.207)

- ❑ If deemed appropriate based on the risk assessment, specific conditions (e.g., increased reporting, reimbursement plan) may be placed on a subaward
- ❑ In addition, a high-risk designation can be added to an award or subaward, as per §3474.10

26

Risk Review (§200.331(b))

Items that may be part of the Pass-through entity's review:

- ▣ Prior experience with same or similar subawards;
- ▣ Results of previous audits;
- ▣ Whether new or substantially changed personnel or systems;
and
- ▣ Extent and results of Federal awarding agency monitoring.

27

Monitoring Procedures (§ 200.331(d))

- ▣ When monitoring subrecipients, the pass-through entity must:
 - ▣ Review reports required by the pass-through entity
 - ▣ Ensure subrecipient takes appropriate action on deficiencies identified through audits, on-site reviews, and other means
 - ▣ Issue a management decision for audit findings pertaining to Federal award
- ▣ Verify audits of subawards (§ 200.331(f))
 - ▣ Threshold for required audits increased to \$750,000

28

Monitoring Tools (§ 200.331(e))

- The following tools may be useful, depending upon the risk assessment:
 - ▣ Providing subrecipient training and technical assistance,
 - ▣ Performing on-site reviews, and
 - ▣ Arranging for agreed-upon-procedures engagements under § 200.425, Audit services [in Cost Principles].

The pass-through entity determines which tools to use based upon its assessment of risk.

29

Risk Assessment: Future of FAPIIS

Federal Awardee Performance and Integrity Information System (FAPIIS) will play an increasingly important role in helping the Department and pass-through entities mitigate risk.

- ▣ FAPIIS will include information on Federal grants, as it does now for contracts.
- ▣ Information addresses performance, grant systems, and debarment and suspension.
- ▣ Coming Soon - OMB is establishing guidance requiring agencies and pass-through entities to consider FAPIIS data when making Federal awards.

30

Key Changes

Cost Principles

31

Time and Effort: Flexible and Accountable

- ❑ Historically, a key area of audit findings
- ❑ New flexibility: “system of internal control” for documenting personnel compensation:
 - ▣ Requirements for personnel compensation are found at 2 CFR 200.430-431
 - ▣ Alternative accounting processes are allowable for sampling in-time distribution reporting
 - ▣ Federal agencies may approve alternative accounting methods for blended funds

32

Deeper Dive: Internal Controls

Key to Time and Effort

33

GAO's Internal Control Standards

- A Control Environment that sets the tone for the organization. This influences the control consciousness of staff. It is the foundation for all other components of internal control.
- A Risk Assessment process that involves the identification and analysis of relevant risks to the achievement of objectives, and forming a basis for how the risks should be managed.

34

GAO's Internal Control Standards

- Control Activities that include the policies and procedures that help ensure management directives are carried out and documented.
- Information and Communication systems or processes that support the identification, and exchange of information in a way and time frame that enable people to successfully carry out their responsibilities.
- Monitoring processes used to assess the quality of internal control performance over time.

35

Control Activities

Type of Control	Definition	Examples
Preventive	Control that helps management to avoid issues before they occur.	<ul style="list-style-type: none"> • Training • Review and Approval Process • Segregation of Duties
Detective	Control that discover issues after they occur.	<ul style="list-style-type: none"> • Reconciliation • Trace Transaction to Source Document • Monitor Actual vs. Budget
General (IT)	Policies and procedures that apply to all or a large portion of an organization's IT systems.	<ul style="list-style-type: none"> • Security Management • Logical and Physical Access • Configuration Management
Application (IT)	Control that is incorporated into computer applications to ensure data accuracy and integrity.	<ul style="list-style-type: none"> • Edit Checks for Input Data • Interface • Data Management System Control

36

Information and Communication

- ❑ Management communicates relevant and timely information to support the internal control system

Factor	Description
Audience	The targeted recipients of the information anticipated to be delivered.
Nature of Information	The type of information being communicated.
Availability	The accessibility of information to the audience.
Cost	The amount of resources needed to communicate the information.

37

Monitoring

- ❑ Management performs evaluations to ensure the design and operation of controls are efficient and effective

Common Terminology	Description/Examples
Ongoing Monitoring	<ul style="list-style-type: none"> • Day-to-day management oversight • Regular comparisons and reviews (leverage automated tools)
Separate Evaluations	<ul style="list-style-type: none"> • Internal/external audits • Periodic self-assessments based on risk (control testing and evaluation)
Control Deficiency	A potential or actual internal control issue or an opportunity to strengthen the organization's internal control system.
Corrective Action	Action item planned by management to remediate identified internal control deficiencies in a specific time frame.

38

Cost Principles: Reminder

- ❑ Basic standards for allowability remain the same.
- ❑ Costs must be:
 - ▣ Necessary
 - ▣ Reasonable
 - ▣ Allocable
 - ▣ Documented

39

Cost Principles: Notable Changes

- ❑ The Uniform Guidance lists most prior approval requirements at 2 CFR 200.407. These did not change.
- ❑ New Requirement: Certifications required for fiscal reports, payment requests, and indirect cost proposals (2 CFR 200.415)
- ❑ Family-friendly Flexibility: limited dependent care costs at conferences (2 CFR 200.432) and travel (2 CFR 200.474)
 - ▣ Does not override the Department guidance regarding conferences
- ❑ Clarification – Materials and supplies: direct charges
 - ▣ Computer equipment <\$5,000 specifically treated as supply (2 CFR 200.453)

40

Cost Principles: Deeper Dive

2 CFR Subpart E

41

Cost Principles: Prior Approvals

Prior approval requirements (§200.407)

Identifies when grantees must consult with the Department and receive approval BEFORE making a change to the grant.

Expanded Authorities (§200.308)

Identifies when the requirement for prior approval before making a change is waived.

42

Cost Principles: Select Items of Cost

Sections (§§200.421 through 200.475) identify the allowability of certain items:

- Allowability applies to direct costs, indirect costs, and matching funds
- Allowability of any costs not included in the select items should be based on the treatment provided for similar or related items of cost and the principles of allocability, reasonableness, and necessity (§200.420)

43

Key Changes

Audit Requirements

44

Key Changes in Audit Requirements

- ❑ Threshold for a required Single Audit has increased to \$750,000 in expended funds
- ❑ Questioned costs <\$25,000 are no longer required to be reported.
 - ❑ Fewer audits and findings will require Federal agencies and grantees to modify risk assessments and monitoring plans, to use alternative resources
 - ❑ Agreed-upon procedures are one means available to address grantees in the \$500,000 to \$750,000 range

45

Key Changes in Audit Requirements

- ❑ The entity being audited will be required to submit its audit electronically to the Federal Audit Clearinghouse, which makes all audits available to all funding agencies.
- ❑ States will continue to resolve subrecipient audits.

46

Key Changes

Indirect Costs

47

Key Changes in Indirect Costs

- ❑ Flexibility for grantees that have never had a negotiated indirect cost rate: de minimis rate of 10% Modified Total Direct Costs (MTDC)
- ❑ Under §§75.561 and 76.561 procedures, States and LEAs not eligible for the de minimis rate
- ❑ Cannot use under restricted rate or training grant programs
- ❑ De minimus rate not to be confused with Department's temporary rate of 10% direct salaries and wages

48

Key Changes in Indirect Costs

- ❑ Grantees that have never had an indirect cost rate may use the temporary rate for 90 days, then submit a proposal for negotiation
- ❑ OR use de minimis rate BUT
 - ▣ Grants subject to “supplement not supplant” must use restricted rate
 - ▣ Training grants must use 8% MTDC rate under §75.562

49

Key Changes in Indirect Costs (cont'd)

- ❑ New flexibility: Grantees with a negotiated rate may apply for an extension of up to 4 years.
 - ▣ Reduces the requirement to renegotiate annually
 - ▣ Requests for extensions must be submitted 60 days earlier than due date for indirect cost proposals (4 months after the end of the grantee's fiscal year)

50

When Does This Start?

51

Timeline

Uniform Guidance (2 CFR Part 200) applies to:

- ❑ New and Continuation grants awarded on or after December 26, 2014
 - ▣ Audit and indirect cost changes take effect when the grantee's next fiscal year after December 26, 2014, starts
- ❑ Funds carried over into a new fiscal year starting on or after December 26, 2014
- ❑ Funds carried over into a continuation grant on or after December 26, 2014

52

Timeline

- ❑ Grants awarded prior to December 26, 2014 and all supplements and admin actions to those grants follow the former regulations (EDGAR Part 74 or 80 and OMB circulars)
- ❑ New grants and continuation funding awarded after December 26, 2014 follow the Uniform Guidance.
 - ❑ Exception: Non-Federal entities have a one year grace period to comply with procurement requirements (see OMB's FAQs)

53

Timeline: Detail

- ❑ Carryover funds:
 - ❑ Uniform Guidance applies to funds carried over in State-administered and formula programs from FY 2015 to FY 2016 (on 10/1/15) and to funds carried over in discretionary programs in continuation awards made on or after 12/26/14.
 - ❑ Example: A State-administered grant awarded on July 1, 2014 has existing terms/conditions (based on former Part 80). If any of those funds are unobligated and carried over to FY 2016 (on 10/1/15), they will have to be used and accounted for consistent with the new Uniform Guidance.
- ❑ In general, by October 1, 2015, most discretionary and formula grants will be following the Uniform Guidance.

54

Timeline: Audits

- ❑ Audit requirements apply to the first fiscal year beginning on or after December 26, 2014
 - ❑ Work with your auditor to ensure that he or she is prepared to address and report on the new requirements.

Example: A state's fiscal year begins July 1, 2015. The state's fiscal year ends on June 30, 2016. This would be the first period audited in which auditors use the new requirements. You must submit your audit within 9 months, by March 31, 2017 in this example.

55

Timeline: Indirect Cost

- ❑ Indirect Cost requirements apply to the first fiscal year beginning after December 26, 2014.
 - ❑ Work with your cognizant agency to ensure your indirect cost rate proposal reflects decisions appropriate for your program

Example: The grantee fiscal year ends June 30, 2015. Your rate proposal is due 6 months after the end of the current fiscal year, on December 31, 2015. Requests for extensions must be submitted 60 days prior to the due date of proposal submission, or October 31, 2015 in this example.

56

Resources

- ❑ Your Department program officer
- ❑ The Department's one-stop shop for information:
[Uniform Guidance Technical Assistance for ED Grantees](#)
 - ❑ Includes links to COFAR, OMB and EDGAR
 - ❑ Includes FAQs
 - ❑ Includes specific crosswalks between Parts 74 and 80 of EDGAR and the Uniform Guidance
- ❑ Email questions to: uniformgrantguidanceimplementation@ed.gov

57

Resources

- ❑ The Department is developing additional training and resources on:
 - ❑ Cost Principles
 - ❑ Internal Controls
 - ❑ Audit Requirements
 - ❑ Indirect Cost Requirements
 - ❑ Procurement Requirements
 - ❑ Risk and Subaward Management

58