

# ***Implementing the Uniform Grants Guidance***

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# Learning Objectives

- What EDGAR is and how relates to the Uniform Grant Guidance
- What changes are being proposed to the UGG
- What policies & procedures are required by the UGG & the U.S. Department of Education (ED)
- What are the federal rules regarding cost principles, procurement, record retention
- What flexibilities ED and the Office of Management and Budget (OMB) are offering during the pandemic

# EDGAR



# EDGAR & The UGG

- The Education Department General Administrative Regulations (EDGAR) includes various grants management rules applicable to all federal awards issued by the U.S. Department of Education (ED).
- The Uniform Grant Guidance (UGG) are federal grants management rules that apply to all awards issued by all federal awarding agencies.
- EDGAR adopted the UGG back in 2014

# Key Parts of the EDGAR

- **Title 34**
  - Part 75 – Direct Grant Programs
  - Part 76 – State-Administered Programs
  - Part 77 – Definitions
  - Part 81 – General Education Provisions Act (GEPA)
- **Title 2**
  - Part 200 – Cost/Administrative/Audit Rules
  - Part 3474 – USDE Exceptions – Adopts Part 200
  - Part 3485 – Nonprocurement Debarment and Suspension
    - Incorporates 2 CFR Part 180, OMB's Guidelines on Debarment and Suspension

# **PART 200 UNIFORM ADMINISTRATIVE REQ, COST PRINCIPLES, AND AUDITS FOR FEDERAL AWARDS**

Formerly know as the “Uniform Grants Guidance”, the “Omni Circular” and the “Super Circular”

# Pop Quiz!

- Which of the following policies and procedures must be in writing at your agency under EDGAR?
  - a. Employee benefits
  - b. Procurement
  - c. Allowable costs
  - d. All of the above
  - e. B & C, only

# 2 CFR Part 200

- Subpart A – Definitions
- Subpart B – General Provisions
- Subpart C – Pre Award Requirements
- Subpart D – Post Award Requirements
- Subpart E – Cost Principles
- Subpart F – Audit Requirements



# Compliant Written Policies and Procedures

- Written policies and procedures required by the UGG
  - Written Cash Management Procedure - § 200.302(b)(6) & § 200.305
  - Written Allowability Procedures - § 200.302(b)(7)
  - Written Conflicts of Interest Policy - § 200.318(c)
  - Written Procurement Procedures - § 200.319(c)
  - Written Method for Conducting Technical Evaluations of Proposals and Selecting Recipients - § 200.320(d)(3)

# Additional Policies & Procedures

- Written Travel Policy - § 200.474(b) & (d)
  - Otherwise, non-federal entity is held to the rates and amounts established under 5 U.S.C. 5701-11
  
- Inventory Management - § 200.313(d)
  - Although written procedures are not expressly required by the rules, the UGG makes references to such procedures
  - Lacking such procedures has also resulted in audit exceptions
  
- Employee Benefits - §§ 200.431(b) & (c); 200.437
  - Costs for employee benefits, if charged to the federal award, must be in accordance with established written/documentated policies.

# Time & Effort Procedures

- The ED's Cost Allocation Guide suggests that all non-federal entities should maintain written procedures on time & effort documentation.
- 2 CFR § 200.430(i)(1)(i): Time distribution records must be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated.
  - ED has often considered written policies & procedures to be a strong internal control.

# Financial Management Controls



# Financial Management Rules

## 200.302(b)

1. Identification of Awards
2. Financial Reporting
3. Accounting Records (Source Docs)
4. Internal Control
5. Budget Control
6. Written Cash Management Procedures
7. Written Allowability Procedures

# Internal Controls

## 200.302(b)(4)

Essentially same as prior 80.20(b)(3):

- Effective control over and accountability for:
  1. All funds
  2. Property
  3. Other assets
- Must adequately safeguard all assets
- Use assets solely for authorized purpose

# The Definition of Internal Controls

## 200.61-62

*Internal controls* means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- a. Effectiveness and efficiency of operations;
- b. Reliability of reporting for internal and external use; and
- c. Compliance with applicable laws and regulations.

# Internal Controls

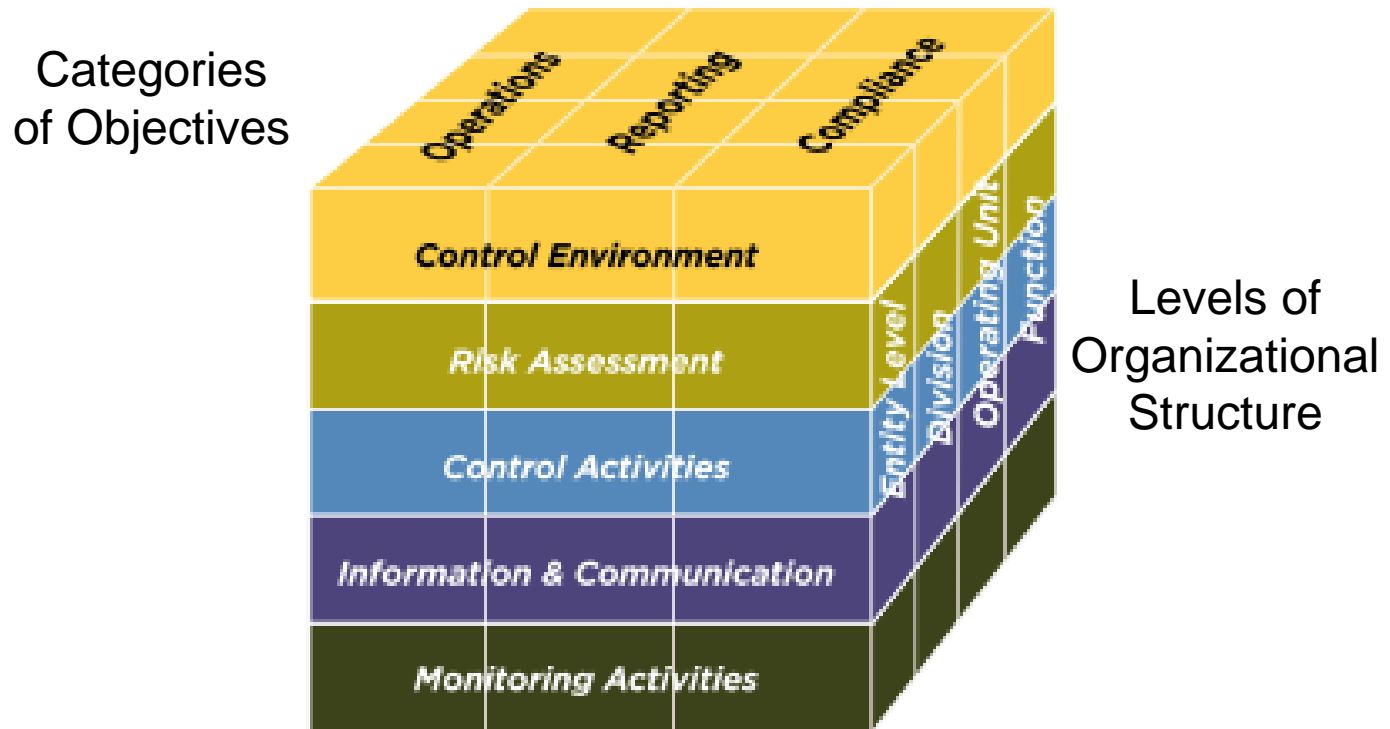
## 200.303

Internal controls “should” be in compliance with:

- The U.S. Comptroller General’s Standards for Internal Control in the Federal Government (Green Book); and
- Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)



# The COSO “Cube”



## Components of Internal Controls

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# Required Certification 200.415

- An official authorized to legally bind the non-federal entity must certify on annual and final fiscal reports or vouchers requesting payment:
  - “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete and accurate and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise.”

# Written Cash Management Procedures 200.302(b)(6)

- Written Procedures to implement the requirements of 200.305

# Pop Quiz!

- You are attending a conference in Las Vegas. The conference is in May and you purchase your airplane ticket in January. The airplane ticket obligates to the Federal grant award:
  - a. On the date you decided to make travel arrangements
  - b. On the date the travel arrangements are booked and seat assignments are confirmed
  - c. On the date the travel arrangements are paid in full
  - d. On the date you take the flight to Las Vegas

# Pop Quiz!

- Which of the following statements about interest earned on cash advances is true?
  - a. All interest must be remitted to ED, no matter the amount.
  - b. All interest must be remitted to HHS, no matter the amount.
  - c. All interest must be remitted to ED when the amount exceeds \$500.
  - d. All interest must be remitted to HHS when the amount exceeds \$500.
  - e. The grantee is entitled to retain all interest earned on cash advances.

# Payment

## 200.305 (a) and (b)

- For states, payments are governed by Treasury – State CMIA agreements 31 CFR Part 205
- For all other non federal entities, payments must minimize time elapsing between draw from G-5 and disbursement (not obligation)

# Obligations

## 200.71



- Obligation = Means orders placed for property and services, contracts and subawards made and similar transactions during a given period that require payment during the same or a future period.
- Reimbursement Payment Process
  - Obligation
  - Liquidation
    - Payment
  - Submit Request
  - Drawdown

# When Obligations Are Made

## 76.707

<b>Type of Obligation</b>	<b>When Obligation Occurs</b>
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre- Agreement Cost	On the first day of the grant or subgrant performance period.



# When May Begin to Obligate 76.708



- Formula Grants:
  - Grantees and subgrantees may begin to obligate funds when:
    - When the awarding agency approves application; or
    - Awarding agency determines application is “substantially approvable”
  - Reimbursement subject to final approval.
- Discretionary Grants:
  - When subgrant is made. However, pre-agreement costs are permissible (reference to 2 CFR Part 200)

# ALLOWABILITY

# Pop Quiz!

- A cost is \_\_\_\_\_ when it does not exceed the cost that would be incurred by a prudent person under similar circumstances.
  - a. Necessary
  - b. Reasonable
  - c. Allocable
  - d. Below the micro-purchase threshold.

# Pop Quiz!

- You go to Best Buy to purchase a \$350 tablet and learn that they are offering a \$100 rebate on all tablets! You purchase the tablet and get the rebate. How much may you charge the federal grant for the tablet?
  - a. \$250
  - b. \$350
  - c. \$450
  - d. You may not purchase the tablet from Best Buy as they are not an approved vendor.

# Pop Quiz!

- A cost is allocable to the grant if:
  - a. The goods or services benefit the grant objectives in any way.
  - b. The cost of the goods or services were included in the budget proposal.
  - c. At least 50% of the goods or services will directly benefit the grant.
  - d. The cost of the goods or services is proportionate to the benefit received by the grant.

# Written Allowability Procedures

## 200.302(b)(7)

- Written procedures for determining allowability of costs in accordance with Subpart E – Cost Principles
- UGG Preamble:
  - Procedures should not simply restate the Uniform Guidance Subpart E
  - Should explain the process used throughout the grant development and budget process
    - Training tool and guide for employees

# Factors Affecting Allowability of Costs

## 200.403

### All Costs Must Be:

1. Necessary, Reasonable and Allocable (200.405)
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. *Net of applicable credits (moved to 200.406)*
8. Adequately documented

# Reasonable

## 200.404

- Consideration must be given to:
  - Whether cost is a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award;
  - The restraints or requirements imposed such as:
    - Arms length bargaining (hint: procurement processes);
    - Federal, state and local laws; and
    - Terms of the grant award.
- Market Prices for comparable goods or services in the geographical area;
- Whether the individuals acted with prudence under the circumstances considering their responsibilities; and
- No significant deviation from established prices.



# Reasonable (cont.)

- Practical Questions (best practice)
  - Do I really need this?
  - Is the expense targeted to valid programmatic/administrative need?
  - Is this the minimum amount I need to spend to meet my need?
  - Do I have the capacity to use what I am purchasing?
  - Did I pay a fair rate?
  - If I were asked to defend this purchase, would I be able to?

# Allocable 200.405

- A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.
  - Incurred specifically for the award;
  - Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
  - Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.
- Can only charge in proportion to the value received by the program
  - Example: Agency purchases a computer to use 50% on the Federal grant program and 50% on a state program – can only charge half the cost to the grant.

# Applicable Credits

## 200.406

- Those receipts or reduction-of-expenditure type transaction that offset or reduce expense items – must be credited to the Federal award as either cost reduction or cash refund, as appropriate.
- Examples: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments

# Direct vs. Indirect

## 200.413(c)

- Salaries of administrative and clerical staff should be treated as “indirect” unless all of following are met:
  - Such services are integral to the activity
  - Individuals can be specifically identified with the activity
  - Such costs are explicitly included in the budget
  - Costs not also recovered as indirect

# The False Claims Act, 31 U.S.C. §§ 3729-3733 (as amended)

- Liability of person, entity, or local or state government who, among other things: (1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment *or approval*, or (2) who knowingly makes, uses or causes to be made or used, a false or fraudulent claim. 31 U.S.C. §§ 3729 (a) (1) (A)-(B)
- Under the FCA, “knowingly” means:
  - 1) Actual knowledge of the information, or
  - 2) **Deliberate ignorance of the truth or falsity of the information, or**
  - 3) **Reckless disregard of the truth or falsity of the information, and**
  - 4) No proof of specific intent to defraud is required.

# The False Claims Act, 31 U.S.C. §§ 3729-3733 (as amended)

- A “claim” is “any request or demand, whether under and contract or otherwise, for money or property...that is presented to an officer, employee, or agent of the United States, or is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government’s behalf **or to advance a Government program** or interest...”

# Types of Claims



- Draw downs on a grant
- Draws on a letter of credit
- Submission of vouchers
- Submission of counts of eligible recipients

# Penalties



- Treble Damages x Actual Harm

AND

- Penalty \$5,500 to \$11,000 Per **Claim**



# PROCUREMENT



# Pop Quiz!

- Grantees and subgrantees may sole source procurement from a vendor as long as that vendor was included in an approved application.
  - a. True.
  - b. False.

# Pop Quiz!

- A cost or price analysis must be performed in connection with:
  - a. Every procurement action.
  - b. Every procurement action in excess of the micro-purchase threshold.
  - c. Every procurement action in excess of the simplified acquisition threshold.
  - d. Select procurement actions at the non-federal entity's discretion.

# Contracts vs. Subawards (200.330)

- A Pass-through entity must make a case-by-case determination whether each agreement casts the party as a subrecipient or contractor. Look at the nature of the relationship. It does not matter what the agreement is called.

<u>Subaward</u>	<u>Contract</u>
<ul style="list-style-type: none"><li>■ Allowable activities based on applicable statute, local plan, State rules</li><li>■ Management rules<ul style="list-style-type: none"><li>■ UGG; and</li><li>■ State law/policies and procedures</li></ul></li></ul>	<ul style="list-style-type: none"><li>■ Allowable activities based on terms and conditions of contract</li><li>■ Management rules<ul style="list-style-type: none"><li>■ Terms of the contract; and</li><li>■ State contract law</li></ul></li></ul>

# Procurement by States

## 200.317

- OSSE simply must follow the same policies and procedures it uses for procurements from its non-federal funds.
- All other non-federal entities must follow, at a minimum, the requirements of Sections 200.318-200.326.
  - All of OSSE's subrecipients must follow the most restrictive requirements between DC law and Uniform Grant guidance.
  - This includes local educational agencies and community-based organizations.

# General Procurement Standards

## 200.318(a)

- All non-federal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations, and must include:
  - Conflicts & Gratuities Policies (can be separate document)
  - Protest procedures (per ED guidance)
- Such procedures should include, among other things, as a best practice:
  - How the non-federal entity initiates procurement actions
  - Procurement thresholds for different methods of procurement
  - Mandatory approvals for all procurements actions

# Contract Administration 200.318(b)

- Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract
  - Are contractors delivering on time?
  - Are all invoices verified before they are paid?
  - Are goods inspected upon delivery?

# Conflict of Interest

## 200.318(c)(1)

- Must maintain written standard of conduct, including conflict of interest policy.
- A conflict of interest arises when any of the following has a financial, other interest, or a tangible personal benefit, in the firm considered/selected for an award:
  - Employee, officer or agent
  - Any member of that person's immediate family
  - That person's partner
  - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award
- Such individuals may not participate in the selection, award, or administration of a contract supported by a federal award



# Conflict of Interest (cont.)

## 200.318(c)(1)

- Must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors/ subcontractors.
- However, may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- Standards of conduct must include disciplinary actions applied for violations.



# Conflict of Interest (cont.)

## 200.318(c)(2)

- If the non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government the entity must also maintain written standards of conduct covering organization conflicts of interest
  - Is there arms-length bargaining?
  - How will non-federal entity ensure all contracts are awarded in a way that avoids conflicts/appearance of conflict?
  - Are dealings between parent and subsidiary subject to internal monitoring?

# Conflict of Interest (cont.)

## 200.112

- All non federal entities must disclose in writing any potential conflict to federal awarding agency in accordance with applicable Federal awarding agency policy.
  - In the case of any state-administered program, such disclosure must also be made to the pass-through entity.
  - Even if further investigation shows no actual conflict, written notice must be given to OSSE.

# Mandatory Disclosures

## 200.113

- Must disclose in writing, in a timely manner:
  - All violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
  - Failure to make disclosures can result in remedies in 200.338 (remedies for noncompliance) including suspension and debarment.
- For examples, if an LEA official receives courtside Wizards tickets from a vendor that is being considered for a contract paid with federal funds:
  - If the non-federal entity fails to disclose such a gratuity violation, not only can the entire procurement action be thrown out, but OSSE can take enforcement actions including terminating the federal award.

# Vendor Selection Process

## 200.318(h)

- Must award contracts only to responsible contractors possessing the ability to perform successfully:
  - Contractor integrity
  - Compliance with public policy
  - Record of past performance
  - Financial and technical resources
- In other words, if the vendor has a history of delinquency, malfeasance, or acting in bad faith/unethical, the non-federal entity must find a different vendor.

# Competition

## 200.319(a)

- All procurement transactions must be conducted with full and open competition.
  - Per ED guidance, non-federal entities must have protest procedures to handle disputes
  - See ED FAQs (Question 18 on page 12):  
<https://www2.ed.gov/policy/fund/guid/uniform-guidance/edfaqs1216.pdf>
- To eliminate unfair advantage, contractors that develop or draft specifications, requirements, statement of work, and invitations for bids or RFPs must be excluded from competing for such procurements.

# Competition (cont.)

## 200.319(a)

- Situations that restrict competition:
  1. Unreasonable requirements on firms to qualify to do business
  2. Requiring unnecessary experience or excessive bonding
  3. Noncompetitive pricing practices
  4. Noncompetitive awards to consultants on retainer
  5. Organizational conflicts of interest (see 200.318(c)(2))
  6. Specifying a brand name instead of allowing “an equal”
  7. Any arbitrary action in the procurement process

# Competition (cont.)

## 200.319(b)

- Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
  - Does not preempt state licensing laws.
  - Exception: architectural and engineering services (if it provides appropriate number of qualified firms).



# Competition (cont.)

## 200.319(c)

- Written procedures for procurement must ensure all solicitations:
  - Incorporate a clear and accurate description of the technical requirements for materials, product or service to be procured; and
    - “Brand name or equivalent” may be used as needed, but the specific features of the named brand which must be met by the offers must be clearly stated
  - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

# Methods of Procurement

## 200.320

- Method of procurement:
  - Micro-purchase
  - Small purchase procedures
  - Competitive sealed bids
  - Competitive proposals
  - Noncompetitive proposals

# Federal Procurement Thresholds

- Micro-Purchase Threshold (200.67): Supplies & services of \$10,000 or less
- Small Purchase Procedures: Allowed at the simplified acquisition threshold (\$250,000) or less (200.88)
- Competitive Proposals required for all purchases over \$250,000 (includes sealed bids).
- Sole-Source (200.320(f)): Non-competitive proposals

# Micro-Purchase 200.320(a)

- Acquisition of supplies and services for **\$10,000** or less.
- May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- To the extent practicable must distribute micro-purchases equitably among qualified suppliers.
- All micro-purchase contracts must be for purchases that are necessary & reasonable
  - To ensure the price is reasonable, non-federal entities should document how the agreed-upon price was reviewed
  - Did the LEA compare prices with other vendors? Review prior purchases? Search for online deals?

# Small Purchase Procedures

## 200.320(b)

- Good or service that costs \$250,000 or less
  - \$250,000 (a.k.a. the Simplified Acquisition Threshold) was raised under NDAA 2018
  - Organization may set lower threshold
- Must obtain price or rate quotes from an adequate number of qualified sources
  - At least two, but three is a best practice
- “Relatively simply and informal”

# Sealed Bids 200.320(c)

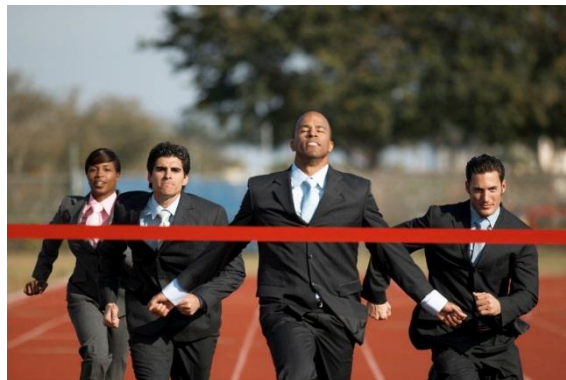


- Over \$250,000
  - Organization may set lower threshold
- Bids are publically solicited.
- Appropriate when:
  - A complete, adequate and realistic specification or description of good or service is available;
  - Two or more responsible bidders are willing and able to compete effectively for the business
  - Selection of vendor can be made principally based on price and it's a firm fixed price contract.

# Competitive Proposals

## 200.320(d)

- Over \$250,000
  - Organization may set lower threshold
- Award contract to responsible vendor whose proposal is most advantageous to the program, considering price and other factors.
- Generally used when sealed bid is not appropriate.



# Noncompetitive Proposals

## 200.320(f)



- Appropriate only when:
  - The item is only available from a single source;
  - There is a public emergency that will not permit delay;
  - After soliciting a number of sources, competition is determined inadequate; or
  - The Federal awarding agency or pass-through expressly authorizes noncompetitive proposals in response to a written request from non-Federal entity;
    - Written requests should provide reasons for sole-sourcing.
    - OSSE has complete discretion in responding to these requests.
    - If there are apparent conflicts or other “red flags” OSSE will likely deny.



# Contract Cost and Price

## 200.323



- Must perform a cost or price analysis in connection with every procurement action over the simplified acquisition threshold, including contract modifications
- Independent estimate before receiving bids or proposals.
  - Price analysis generally means evaluating the total price
  - Must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost/price analysis is performed.

# Suspension and Debarment

## Appendix II(H)

- Cannot contract with vendor who has been suspended or debarred
  - Excluded Parties List System in the System for Award Management (SAM)
  - 2 CFR Part 180 (OMB Debarment Suspension Rules) and 2 CFR 3485 (USDE Rules)

# Suspension and Debarment

## 2 CFR 180.300

- For contracts over \$25,000 you must verify that the person with whom you intend to do business is not excluded or disqualified.
- This MUST be done by either:
  - a. Checking SAM; or
  - b. Collecting a certification from that person; or
  - c. Adding a clause or condition to the covered transaction with that person.

# SUBPART E – COST PRINCIPLES



# Pop Quiz!

- You are planning your organization's annual conference. Which of these costs are allowable?
  - a. Costs of providing locally available dependent care.
  - b. Costs of identifying locally available dependent care.
  - c. Speakers' fees.
  - d. A & B only.
  - e. B & C only.

# SELECTED ITEMS OF COST

There are 55 specific items of cost!

Starts at 200.420

# Selected Items of Cost Examples

- **Alcohol 200.423**
  - Not allowable
- **Entertainment 200.438**
  - Not allowable UNLESS Prior Written Approval of Federal Awarding Agency.
  - Field Trips & Pizza Parties are common examples



# Advertising/Public Relations

## 200.421

- Allowable for programmatic purposes including:
  - Recruitment
  - Procurement of goods
  - Disposal of materials
  - Program outreach
  - Public relations (in limited circumstances)



# Conferences

## 200.432

- **Generally Allowable**

- To be a conference, must disseminate technical information beyond the non-federal entity
- Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
- Costs related to identifying, but not providing, locally available dependent-care resources
- Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner that minimizes costs to federal award

# Travel

## 200.474

- Travel costs may be charged on actual, per diem, or mileage basis
- Travel charges must be consistent with entity's written travel reimbursement policies
- Allows costs for “above and beyond regular dependent care”
- Grantee must retain documentation that participation of individual is necessary for the project

# COVID-19 Travel Flexibility

- ED Fact Sheet: If a conference, training, or other activity related to a grant from the Department is cancelled due to COVID-19, may grant funds be used to reimburse nonrefundable travel (e.g., conveyance or lodging) or registration costs that were properly chargeable to the grant at the time of booking?
  - Yes, provided that a grantee or subgrantee first seeks to recover nonrefundable costs (e.g., travel, registration fees).
    - Refunds, credits, and other remedies
      - Credits must be used for allowable travel under the same federal program.
    - Must seek to exercise “Act of God” clauses to the extent possible in light of the COVID-19 outbreak.

# COVID-19 Travel (cont.)

- If unable to recover the costs, may charge the appropriate grant for the cancellation costs, provided the costs were reasonable and incurred in order to carry out an allowable activity under the grant.
- Grantees and subgrantees should not assume additional funds will be available.
- Must maintain appropriate records to substantiate the charging of any cancellation or other fees related to the interruption of operations or services.

# COVID-19 & Future Travel

- If a grantee or subgrantee is planning future travel under a grant from ED, may it purchase travel insurance with grant funds?
  - Due to health concerns related to COVID-19, grant-supported travel generally should not be occurring.
  - However, if travel is permitted and is the only means to carry out an essential grant function that must be undertaken on a time-sensitive basis during the COVID-19 pandemic, travel could still be allowable.
  - Consistent with the grantee's or subgrantee's travel policy, travel insurance is allowable provided the cost is reasonable and allocable to the grant consistent with the Federal cost principles described in 2 CFR Part 200 Subpart E of the Uniform Guidance.

# TIME AND EFFORT DOCUMENTATION



# Pop Quiz!

- An administrator spends 15% of his time working on Title I admin and 85% of his time working on non-federal activities. The administrator does not have to keep time and effort records because most of his time is spent on non-federal activities.
  - a. True.
  - b. False.

# Pop Quiz!

- Which of these individuals need to keep time and effort records?
  - a. A part time employee spending 50% of her time working on federal grants
  - b. A part time contractor spending 50% her time working on federal grants
  - c. A full time employee spending 50% of her time on federal grants
  - d. A & C, only
  - e. B & C, only
  - f. None of the above. Only employees who spend 100% of their time on federal grants must keep time and effort records.



# Tracking Personnel Expenses

## 200.430(i)

- ❖ All employees must maintain documentation showing that their salaries are allocable to a federal program 200.403(a).
- ❖ That documentation must be based on records that accurately reflect the work performed.

# The Prior A-87 Rule (SEAs and LEAs)

## Semi-Annual Certifications

- If an employee works on a single cost objective:
  - After the fact
  - Account for the total activity
  - Signed by employee **or** supervisor
  - Every six months (at least twice a year)

## Personnel Activity Report (PAR)

- If an employee works on multiple cost objectives:
  - After the fact
  - Account for total activity
  - Signed by employee
  - Prepared at least monthly and coincide with one or more pay periods

# Documentation Requirements

## 200.430(i)(1)

These records MUST:

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and allocable;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
4. Encompass all activities (federal and non-federal);
5. Comply with established accounting policies and practices;  
and
6. Support distribution among specific activities or cost objectives.

# Cost Objective

## 200.28

- What is a cost objective?
  - Program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc.
- Any federal money that you need to track separately (admin cap, minimum set-aside, etc...) will be its own cost objective, such as:
  - Title I Parent & Family Engagement
  - Title II Admin
  - Title I Neglected & Delinquent

# Reconciliation

## 200.430(i)(1)(viii)(C)

All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

# Compliance 200.430(i)(2)



- For records which meet the standards, the non-federal entity will not be required to provide additional support or documentation for the work performed.

# Noncompliance 200.430(i)(8)

For a non-Federal entity where the records do not meet these standards:

- USDE may require personnel activity reports (PARs), including prescribed certifications or equivalent documentation that support the records as required in this section.
  - PARs are not defined!!



# Time & Effort Example

## Castle Rock School District

### Time and Effort Certification

Name: Leland Gaunt

Date: From January 2019 through June 2019

Office: ESSA Title I Programs

I hereby certify that I spent 100% of my time working on Title I-A admin during the time period  
(cost objective)  
indicated above.

Leland Gaunt, Title I coordinator

7/1/2019

Name, Position

Date



# Time & Effort Example

Jerusalem's Lot High School

## Personnel Activity Report

Employee: Benjamin Mears

Office: Federal Programs.

Reporting Period: May 1, 2019-May 31, 2019

I hereby certify that this report is an accurate representation of the total activity expended during the period indicated.

Cost objective	Account number	Distribution of time
Title II-A Admin	200	30%
Title III-A Admin	600	70%

Signature: *Benjamin Mears*

Date: 6/1/2019

# AEFFA's Proposals for New Time and Effort Systems June 15, 2016



Letter: <http://www.bruman.com/wp-content/uploads/2010/10/AEFFA-letter-to-Dept-of-Education-June-2016-Final.pdf>

(On BruMan Website)

# AEFFA Proposed T&E Flexibility

1. Certification of Actual Time Worked
2. Blanket Certification
3. Official Record of Employee Activities
4. Electronic Submissions/Approvals
5. Roll-up Time and Effort Tracking
6. Allocation of Effort Using a Basis Other than Time

# Time & Effort During Pandemic

- ED Fact Sheet: May a grantee or subgrantee continue to pay the compensation of an employee paid with federal grant funds from ED during the period the employee is unable to work because his or her organization is closed due to novel Coronavirus Disease 2019 (COVID-19)?
  - Yes. Generally, a grantee or subgrantee may continue to charge the compensation
    - Consistent with the organization's policies and procedures re: emergencies
    - The grantee or subgrantee may amend or create a policy in order to put emergency contingencies in place for Federal and non-Federal similarly situated employees.

# T&E During Pandemic (cont.)

- However, an employee who is being paid with federal grant funds while the program grant activities are closed in whole or in part due to the COVID-19 pandemic may not also be paid for the time during which the program is closed by the organization or another organization for working on other activities that are not closed down.
- Maintain appropriate records and cost documentation.
- At the same time, recipients should consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant.

# PROPERTY MANAGEMENT

# Pop Quiz!

- To meet equipment management requirements, a nonfederal entity must:
  - a. Take physical inventory every two years.
  - b. Investigate all incidents of loss, damage, or theft.
  - c. Maintain property records that include a description of the property, a serial or other identification number, the source of funding, acquisition date and cost.
  - d. All of the above.
  - e. None of the above. Equipment management is left to the discretion of the nonfederal entity.

# Pop Quiz!

- A State or LEA has an obligation to pay back the federal share of a piece of equipment after disposition when:
  - a. The equipment is valued at more than \$1,000 at the time of purchase.
  - b. The equipment is valued at more than \$1,000 at the time of disposition.
  - c. The equipment is valued at more than \$5,000 at the time of purchase.
  - d. The equipment is valued at more than \$5,000 at the time of disposition.



# Equipment

## 200.33

- Equipment: tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- Grantee may also use its own definition of equipment as long as the definition would at least include all equipment defined above.

# Supplies

## 200.94

- All tangible personal property other than equipment
  - Computing devices are supplies if less than \$5,000
- Computing devices 200.20
  - Machines used to acquire, store, analyze, process, public data and other information electronically
  - Includes accessories for printing, transmitting and receiving or storing electronic information

# Internal Controls

## 200.302(b)(4)

- Regardless of cost, grantee must maintain effective control and “safeguard all assets and assure that they are used solely for authorized purposes.”

# Equipment

## 200.313(a) and (c)(4)

- Conditional Title vests with the non-Federal entity.
- Cannot encumber the property without approval of Federal agency or Pass-through agency

But

- When acquiring replacement equipment, may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

# Use of Equipment

## 200.313(c)(1) and (2)

- Equipment must be used by the Non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award.
- When no longer needed, may be used in other activities with the following priority:
  1. Projects supported by Federal awarding agency
  2. Project funded by other Federal agencies
- When used it may be shared (according to the above priorities) provided such use will not interfere with work on the original projects/programs.
- Exception – Private Schools 76.661

# Equipment Procedures

## 200.313 (d)

Procedures for managing equipment must meet the following requirements:

1. Property records
  - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
2. Physical inventory at least every two years
3. Control system to prevent loss, damage, theft
  - All incident must be investigated
4. Adequate maintenance procedures
5. If authorized or required to sell property, proper sales procedures to ensure highest possible return.

# Disposition of Equipment 200.313(e)

- When property is no longer needed in any current or previously Federally-funded supported activity, must follow disposition rules:
  - Nonfederal entity must request disposition instructions from the federal awarding agency if required by the terms of the grant.
  - Otherwise, may be retained, sold or otherwise disposed as follows:
    - Over \$5,000 – pay federal share
      - If equipment is sold: Federal awarding agency may permit non-Federal entity to deduct and retain \$500 or 10% of the proceeds for selling and handling instructions.
    - Under \$5,000 – no accountability (still must formally dispose)

# Disposition of Supplies

## 200.314

If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, must compensate the federal government for its share.



# ED Pandemic Guidance on Inventory

- April 29 Guidance Document: For temporary use, grantees and subgrantees may repurpose federally purchased equipment and supplies that are not currently in use to meet the general education needs of students, and the instructional needs of teachers, related services providers, and other educational personnel during the national emergency caused by COVID-19.

<https://www2.ed.gov/documents/coronavirus/covid19-repurposing-equipment-supplies.pdf>

# Inventory Pandemic Guidance (cont.)

- May distribute unused laptops to assist students in accessing online instruction in their home.
- This authority is temporary during the national emergency caused by the COVID-19 pandemic.
- When the national emergency ends, schools reopen, and students once again begin attending schools in person, the equipment and supplies that are not consumed must be returned for the programs for which they were purchased.

# Pandemic Guidance (cont.)

- Grantees and subgrantees must clearly mark the equipment and supplies being repurposed with pertinent identifying information.
- Must maintain an inventory of the equipment and supplies being repurposed to facilitate proper return, including the following:
  - A description and itemization of the type of equipment or supplies being temporarily repurposed.
  - The source (federal program(s) funds involved) from which the temporarily repurposed equipment or supplies were purchased and the amount of Federal funds used for the purchase.
  - Where the equipment or supplies are assigned for use during the duration of the COVID19 national emergency.
  - The date on which the equipment or non-consumed supplies are returned for federal program purposes.

# Pandemic Guidance (cont.)

- This authority **does not** permit grantees and subgrantees to use unobligated federal grant funds to purchase new equipment and supplies for purposes not aligned with the allowable activities of the program under which funds are available.

# Recordkeeping and Retention

# Pop Quiz!

- The statute of limitations for recovery of an unallowable cost is:
  - a. One year from the date of obligation.
  - b. Eighteen months from the date of obligation.
  - c. Three years from the date of obligation.
  - d. Five years from the date of obligation.
  - e. None of the above. There is no time limit on the recovery of federal funds.

# Pop Quiz!

- If you want to convert your paper records to an electronic format, you must:
  - a. Make sure records remain readable.
  - b. Conduct periodic quality control.
  - c. Safeguard against alteration.
  - d. All of the above.
  - e. None of the above. You may never convert paper records to electronic format.

# Records

## 34 CFR 76.730 & 76.731

- A State and subgrantee shall keep records that fully show:
  - The amount of funds;
  - How funds were used;
  - Total cost of the project;
  - Share of the cost provided from other sources;  
and
  - Other records to facilitate an effective audit.





# Accounting Records

## 200.302(b)(3)

- Source Documentation Must Be Kept On:
  - Federal Awards
  - Authorizations
  - Obligations
  - Unobligated balances
  - Assets
  - Expenditures
  - Income
  - Interest

# Record Storage (200.335)

- When original records are electronic and cannot be altered, there is no need to create and retain paper copies.
- When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
  - Are subject to periodic quality control reviews,
  - Provide reasonable safeguards against alteration; and
  - Remain readable.

# Record Retention (200.333)

- EDGAR says to keep records for 3 years (200.333)

BUT...

- Keep records for 5 years from the last expenditure report (as stated in OSSE assurances) because of “Statute of Limitation” under GEPA Section 81.31(c)
  - U.S. Department of Education can seek recovery of funds up to five years after funds are obligated

# Proposed UGG Changes

- Proposal Published January 22, 2020
- Comments Closed March 23, 2020
- Final Changes in August?



# Summary of Proposed Revisions

- Procurement Changes to Better Target Areas of Greater Risk and Conform to Statutory Requirements
- Strengthen Merit Review and Improve Governmentwide Approach to Performance and Risk
- Standardize Terminology, Data Elements and Alignment with Other Authoritative Source Requirements
- Emphasize Machine Readable Information Format
- Eliminate References to Non-Authoritative Guidance
- Change Closeout to Reduce Burden and Support the GONE Act
- Expanded Use of Di Minimus Rate
- Clarify Areas of Misinterpretation



# Takeaways

Item	Recommended Next Steps
Subgrantees must ensure all required written policies /procedures are in place, up-to-date, and compliant with federal, State, and local rules	Review and confirm that subgrantee's policies and procedures address the following: <ul style="list-style-type: none"><li>- Accounting and budgeting practices</li><li>- Allowability procedures</li><li>- Cash management procedures</li><li>- Record retention policies</li><li>- Methods for collection, transmission, and storage of personally identifiable information</li><li>- Payroll policy</li><li>- Property management policy</li><li>- Procurement policy</li><li>- Conflict of interest policy</li></ul>
Subgrantees must follow most restrictive requirements between federal, State, and local rules	Review federal, state and local grant requirements. Confirm that subgrantee procurements follow grant funding source required processes

# Takeaways (con't)

Item	Recommended Next Steps
Subgrantees must maintain all relevant source documentation on all costs for at least five years	Maintain all source documentation used to support a procurement for five years from the date of submission of the final expenditure report or other required report, as appropriate
Subgrantees must review time & effort documentation to ensure it is compliant with the UGG	Confirm that the subgrantee has a time and effort policy and that time and effort documents are properly created and maintained
Subgrantees must ensure that all needed steps are appropriately followed when using the sole source procurement process	Revisit 2 CFR 200.320; ensure that all pre-award documentation is maintained including justification for decision; and/or request prior approval from OSSE to sole source a procurement

# Next steps...

- Ensure financial policies and procedures written, current and compliant with State, local and federal rules
- Maintain procurement source documentation
- Create and maintain time and effort documentation
- Create and maintain all sole source justification documentation



# Possible Consequences of Non-Compliance

- For K12SS Consolidated Monitoring, compliance findings are reported to the subgrantee's leadership and board members, if applicable.
- Subgrantees can be placed on “specific conditions” (2 CFR 200.207; 2 CFR 200.338) which may include:
  - Additional detailed financial reporting
  - Increased project monitoring
  - Technical or management assistance
  - Restricting funding

## **Provisions OSSE has placed on subgrantees under specific conditions:**

- Increased monitoring such as quarterly visits
- Increased reporting such as monthly program and fiscal reports
- Directed use of funds
- Withheld all or part of grant award

# Resources

- Grants and Funding:
  - <https://osse.dc.gov/page/grants-and-funding-0>
  - Search words: Grants and Funding OSSE
- Risk Based Monitoring Grant Guidance and Tool
  - <https://osse.dc.gov/publication/risk-based-monitoring-tools-and-resources>
  - Search words: Risk Based Monitoring OSSE
- 2 CFR 200 – Uniform Grant Guidance
  - [https://www.ecfr.gov/cgi-bin/text-idx?SID=e69faf6635f502760e38219847b65f32&mc=true&tpl=/ecfrbrowse/TITLE02/2cfr200\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?SID=e69faf6635f502760e38219847b65f32&mc=true&tpl=/ecfrbrowse/TITLE02/2cfr200_main_02.tpl)
  - Search words: Electronic CFR
- The Administrator’s Handbook on EDGAR
  - <https://www.bruman.com/publications/>

# Closing

- Please complete the survey
- Questions?

Please contact Renu Oliver at  
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