Overview of Code of Regulations
2 CFR 200 – Uniform Guidance

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Learning Objective

• To Provide an Overview of 2 CFR 200
Implementation of the Uniform Guidance

Dec. 19, 2014
OMB and 26 Federal agencies published a joint interim rule on December 19, 2014.

Dec 26, 2014
The administrative requirements and cost principles found in the Uniform Guidance are applicable to all awards after 12/26/2014.

July 22, 2015
OMB published modifications to 2 cfr 180 and 200 to incorporate requirements related to the Federal Award Performance and Integrity.
Why the Uniform Guidance

- Reduce Administrative Burdens
- Streamline Requirements for Federal Awards
- Protect Federal Funds from Waste, Fraud, and Abuse
Consolidation of Circulars

Cost Principles
- 2 CFR 220 (A-21)
- 2 CFR 225 (A-87)
- 2 CFR 230 (A-122)

Audit Requirements
- A-133
- A-50

Administrative Requirements
- A-102
- 2 CFR 215 (A-110)

CFDA
- A-89
2 CFR 200 Structure

• Subpart A – Acronyms and Definitions
• Subpart B – General Provisions
• Subpart C – Pre-Award & Administrative Requirements
• Subpart D – Post Award Requirements
• Subpart E – Cost Principles
• Subpart F – Audit Requirements
Conflict of Interest - §200.112

Requires federal agencies to establish conflict of interest policies for federal awards. Recipients must disclose in writing any potential conflict of interest to the federal awarding agency or the past through agency in accordance with the applicable federal agency policy.
Specific Conditions §200.207

- Withholding Authority to Proceed
- Additional Reporting Requirements
- Increased Project Monitoring
- Obtain Assistance
- Prior Approval
Information Contained in a Federal Award

- General Award Information
- General Terms and Conditions
- Specific Conditions
- Performance Goals
- Other Required Information
Performance Measurement

§200.301

Award recipients are required:

• To use standard information collections when providing financial and performance information

• Relate the financial data to performance accomplishments
Recipients must have a financial management system which:

- Identifies, in its account, all Federal awards
- Provides accurate, current, and complete financial reporting
- Maintains source documents and other records that identify the source and application of funds
• Provides effective control over all funds, property, and other assets
• Compares expenditures with budget amounts for each Federal award
• Includes written procedures for payments and for determining allowability of costs
Recipients must:

- Establish and maintain effective internal controls
- Comply with Federal statutes, regulations, and terms and conditions
- Evaluate and monitor compliance
- Take prompt action on audit findings
- Safeguard protected personal identifiable information
Cost Sharing and Matching
§200.306

Cost sharing or matching means the portion of project costs not paid by Federal funds (unless otherwise authorized by Federal statute). Cost Sharing or Matching:

• Are verifiable from the non-Federal entity’s records
• Are not included as contributions for any other Federal award
• Are necessary and reasonable for accomplishment of project or program objectives
• Are allowable under Subpart E – Cost Principles
Cost Sharing and Matching

§200.306

• Are not paid by the Federal Government under another Federal award (unless otherwise authorized by Federal statute)
• Are provided for in the approved budget when required by the Federal awarding agency or pass-through agency
Cost Sharing and Matching

§200.306

Third-party in-kind contributions means the value of non-cash contributions (i.e., property or services) that—

a) Benefit a federally assisted project or program; and

b) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award.
Program Income §200.307

Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.

- Fees from services performed, use of rental of property, principal and interest on loans made with the Federal award are examples of program income.
- Proceeds from the sale of real property, equipment, or supplies are not program income.
Program Income §200.307

Three types of program income

- **Deduction**: reduces the cost of the project
- **Addition**: adds the program income to the Federal award
- **Cost Sharing or Matching**: allows the recipient to use program income to meet the cost sharing or matching requirement of the Federal award
Revisions of Budget and Program Plans §200.308

For non-construction Federal awards, recipients must request prior approvals for the following:

- Change in the scope or objective of the project or program
- Change in a key persons named in the grant application or federal award
Revisions of Budget and Program Plans §200.308

- Three month or more disengagement or 25% reduction in level of effort by the approved project director or principal investigator
- Costs that require prior approval
- The transfer of participant support costs budget to other categories
Revisions of Budget and Program Plans §200.308

• Subawarding, transferring, or contracting out of any work, including fixed amount awards
• Changes in the approved cost-sharing or matching
• Additional funding to complete the project
Period of Performance §200.309

A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance (except as described in §200.461 Publication and printing costs) and any costs incurred before the Federal awarding agency or pass-through entity made the award that were authorized by the Federal awarding agency or pass-through entity.
Property Standards

• Sections 200.310-316 cover property standards, which includes information on the use, management, and disposition of real property, Federally-owned and exempt property, equipment, supplies, and intangible property.

• **Use** - All property acquired with Federal award funds must be used for the originally authorized purposes as long as needed.
Property Standards

Disposition
If the property is no longer needed for the original purpose, the recipient must request disposition instructions from the pass-through agency.
Property Standards

**Equipment** – For all the types of equipment, the recipient must report and obtain disposition instructions from the Federal award agency. For use and disposition of equipment, refer to 200.313(c)(e).

- Equipment is defined in 200.313 as tangible personal property with a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000.
Property Standards

- Title of the equipment acquired under a Federal award vests with the non-Federal entity.
- A physical inventory of the equipment must be taken, and the results must be reconciled with the property records at least once every two years.
Property Standards

**Supplies** – unused supplies exceeding $5000 must be used on other activities or sold, and the Federal Government is compensated for its shared.

- Supplies is defined in 200.94 as all tangible personal property other than those described in 200.33 Equipment.
- A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000, regardless of the length of its useful life.
• §200.317 Procurements by states.
• §200.318 General procurement standards.
• §200.319 Competition.
• §200.320 Methods of procurement to be followed.
• §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
Procurement Standards

- §200.323 Contract cost and price.
- §200.324 Federal awarding agency or pass-through entity review.
- §200.325 Bonding requirements.
- §200.326 and Appendix II Contract provisions.
Procurement Standards

General Procurement Standards

• Have and use documented procurement procedures
• Have written standards of conduct in procurements
• Have procedures to avoid purchasing unnecessary or duplicative items
• Maintain sufficient records of every procurement
Procurement Standards

Methods of procurement to be followed.

- Micro-Purchase (up to $10000)
- Small Purchase ($10000-$250K)
- Sealed Bid (can use when price is only factor)
- Competitive Proposals (over $250K)
- Noncompetitive (usually when there is a sole source or emergency)
Procurement Standards

• §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
  – Non-Federal entities must take the six affirmative steps listed in 200.321 to assure these firms will be used when possible.

• §200.322 Procurement of recovered materials
  – Only applies to states and political subdivisions of states
Procurement Standards

• §200.322 Procurement of recovered materials
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• §200.323 Contract cost and price.
  – Cost or price analysis must be done for every procurement exceeding the Simplified Acquisition Threshold (currently $250K)
Procurement Standards

• §200.324 Federal awarding agency or pass-through entity review.
  – Specifies certain scenarios where the non-Federal entity must make procurement-related documents available to the Federal government or pass-through entity.
Procurement Standards

• §200.325 Bonding requirements.
  – The Federal awarding agency or pass-through entity may require specific bonding requirements if they determine the Federal interest is not adequately protected.

• §200.326 Contract provisions.
  – Stipulates up to ten required provisions for a procurement contract
  – See 2 CFR 200, Appendix II for details
Performance and Financial Monitoring and Reporting

• Recipients are responsible for oversight of the operations of the Federal award supported activities whether undertaken by their employees, subrecipients or contractors.

• Recipients must monitor all activities to ensure compliance with applicable Federal requirements and that performance expectations are being achieved.
Performance and Financial Monitoring and Reporting

• Monitoring by the non-Federal entity must cover each program, function or activity

• Reports to the Federal awarding agency or pass-through agency must be submitted not more frequently than quarterly, but at least annually.
Performance and Financial Monitoring and Reporting

§200.327 Financial reporting

• Recipients must use OMB approved forms for financial reporting
• Financial reporting must be collected with the frequency required by the terms and conditions of the award.
§200.328 Monitoring and reporting program performance

• All performance reports (quarterly, semiannual, annual, and final) are due based on the date in the award document.

• Recipients must use OMB-approved government-wide standard information collections when providing performance information.
Performance and Financial Monitoring and Reporting

• Performance reports must contain brief information on the following:
  – A comparison of actual accomplishments to the objectives of the Federal award established for the period
  – The reasons why established goals were not met, if appropriate
Performance and Financial Monitoring and Reporting

– Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
Performance and Financial Monitoring and Reporting

• **Significant developments** - the non-Federal entity must inform the pass-through entity as soon as the following types of conditions become known:
  
  – Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
Performance and Financial Monitoring and Reporting

– Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

• The Federal or pass-through awarding agency may make site visits as warranted by program needs and may waive needs and any performance report required.
RECORD RETENTION AND ACCESS

§200.333

• Financial records and key supporting documents must be retained for a period of three years from the date of submission of the final expenditure report.

• However, North Carolina requires that recipients maintain records for five years.
Exceptions to record retention requirements

• If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award.
RECORD RETENTION AND ACCESS
§200.336

• The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
REMEDIES FOR NONCOMPLIANCE

§200.338

• If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may take the following actions:
Remedies for Noncompliance

§200.338

- Impose specific conditions
- Temporarily withhold cash payments
- Disallow all or part of the cost of the activity or action not in compliance
- Wholly or partly suspend or terminate the Federal award
REMEDIES FOR NONCOMPLIANCE
§200.338

– Initiate suspension or debarment proceedings
– Withhold future Federal awards
– Take other remedies that may be legally available
Closeout §200.343

• The Federal awarding agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity.
• The non-Federal entity must submit, after the end of the reporting period of performance, all financial, performance, and other reports in accordance to the date in the award.
The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.
• The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.
Cost Principle Application

• The non-Federal entity (NFE) is responsible for efficient and effective administration of the Federal award through sound management practices.

• The NFE is responsible for administering the Federal funds in a manner consistent with underlying agreements, program objectives, and terms and conditions of the Federal award.
Cost Principle Application

• The NFE should have internal accounting polices and practices consistent with the cost principles and support the accumulation of costs as required by the principles and provide adequate documentation to support the cost charged to the award.
The **total cost** of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits.
An *allowable cost* is one that meets the criteria for authorized expenditures specified in the cost principles.
ALLOWABILITY

To be allowable, costs charged to the Federal award must be:

• Allocable to the award under the provisions of the applicable cost principles
• Necessary and reasonable for proper and efficient performance and administration of the grant or cooperative agreement
ALLOWABILITY

• Treated consistently as a direct or indirect cost
• Determined in accordance with generally accepted accounting principles (GAAP), except as otherwise stipulated in the applicable cost principles
• Net of applicable credits
ALLOWABILITY

• Not included as a cost or used to meet the cost-sharing or matching requirements of another federal award, unless specifically permitted by federal law or regulation
• Adequately documented
• Authorized or not prohibited under state or local laws and regulations
ALLOWABILITY

• In conformance with limits or exclusions on types or amounts of costs, as set forth in the applicable cost principles, federal laws, award terms and conditions, or other governing regulations

• Consistent with the recipient’s policies, regulations, and procedures that apply to both federal awards and other activities of the recipient
REASONABLENESS

A cost is considered *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under circumstances prevailing at the time the decision was made to incur the cost.
ALLOCABILITY

A cost is *allocable* to an award if the goods or services involved are chargeable or assignable to the award or cost objective in accordance with the relative benefits received.
ALLOCABILITY

A cost is allocable if it meets the following criteria:

• Is incurred specifically for the federal award
• Benefits both the federal award and other work of the nonfederal entity, and can be distributed in proportions that may be approximated using reasonable methods, and
ALLOCABILITY

• Is necessary to the overall operation of the nonfederal entity and is assignable in part to the federal award in accordance with the Cost Principles
DIRECT AND INDIRECT COSTS

A cost that can be identified specifically with a particular grant, project, service or other activity of an organization, it is generally considered a **direct cost**.
DIRECT AND INDIRECT COSTS

Costs that are incurred for common or joint objectives of an organization and cannot be readily identified with a particular grant, project, service or other activity is an indirect cost.
DIRECT COSTS

• Examples of direct costs which are incurred directly for the grant may include:
  • Salaries and related fringe costs
  • Cost of supplies and equipment
  • Cost of Travel
INDIRECT COSTS

Common indirect costs may include:

• Depreciation on buildings and equipment
• Costs of operating and maintaining facilities
• General administration and general expenses
• Personnel and accounting administration
Reimbursement of indirect costs under a grant is based on the organization’s indirect cost rate which must be negotiated with the NFE’s cognizant federal agency.
INDIRECT COSTS

\[
\text{Total Indirect Costs} = \frac{\text{Indirect Costs}}{\text{Direct Cost Base}} \times \text{Indirect Cost Rate}
\]
Indirect Rate

A NFE who has never had an indirect rate may elect to use the 10% de minimis rate of modified total direct costs which may be use indefinitely or use the de minimis rate until the NFE can negotiate a indirect rate.
Indirect Rate

2 CFR 200.414 requires federal agencies and pass-through entities to accept the indirect cost rate that the recipient has negotiated with its cognizant agency.
Selected Item of Costs

2 CFR 200.421-475 provides a list of selected item of costs. The list is not comprehensive. If a particular item is not indicated the NFE should check with the awarding official to determine the allowability of the cost.
Selected Item of Costs

• Refer to www.ecfr.gov, 2 CFR 200, Subpart E, General Provision for Selected Items of Cost
• Search for the expense in the table of contents
• Go to the specified section for cost description
Selected Item of Costs

- Review the specifics of each matching cost description
- Read the entire description, watching conditional requirements
Resources

• [http://www.whitehouse.gov/omb/grants_docs](http://www.whitehouse.gov/omb/grants_docs)
  – Includes the final version of the uniform guidance, a crosswalk of old guidance to new guidance, and you can sign up for the COFAR mailing list
• [https://cfo.gov/cofar/](https://cfo.gov/cofar/)
  – Many resources, including videos of Uniform Guidance training and FAQs
• [www.ecfr.gov](http://www.ecfr.gov)
  – Latest version of all federal regulations
• [www.grants.gov](http://www.grants.gov)
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