

MaherDuessel

Pursuing the profession while promoting the public good®

www.md-cpas.com

Uniform Guidance Update: with an Emphasis on Procurement

DIANE E. EDELSTEIN, CPA

SENIOR PARTNER

July 28, 2021

Diane Edelstein, CPA

Diane is a Senior Partner at Maher Duessel in Pittsburgh, PA. She has over 30 years of experience in public accounting and has always concentrated on Single Audits.

She is a Single Audit specialist and is the designated audit partner responsible for quality controls that are required by our participation in the AICPA Governmental Audit Quality Center.

- ❑ Teaches for AICPA
- ❑ Member of Steering Committee of AICPA NPO Conference 2012-2017
- ❑ Prior member of the Executive Committee of the AICPA GAQC



Revision of Uniform Guidance background

- ❑ OMB must review the Uniform Guidance regulation every five years (2 CFR 200.109)
- ❑ First five-year review resulted in August 2020 issuance of a *Federal Register* notice, [Guidance for Grants and Agreements](#)
- ❑ All actions were made in [Title 2, Grants and Agreements](#) (2 CFR)

2 CFR parts revised

- ❑ 2 CFR Part 25 – Universal Identifier and System for Award Management
- ❑ 2 CFR Part 170 – Reporting Subaward and Executive Compensation Information
- ❑ 2 CFR Part 183 – Never Contract with the Enemy (new part added)
- ❑ 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also referred to as the Uniform Guidance)

Implementation resources

- ❑ [2 CFR Revisions \(Redlined\)](#) - Nonauthoritative OMB reference document providing a markup identifying changes
- ❑ [2 CFR Revisions \(85 FR 49506\) Crosswalk](#) - Document posted on www.cfo.gov that compares the revisions to 2 CFR made in August 2020 with previous CFR guidance

Crosswalk example

A		B		C		D		E	F	G	H	I	J
Previously Published 2 CFR 200		Final 2 CFR 200		Type of Change									
Section	Title	Section	Title	Title	Number	Reference	Substantive	Minor	None				
Procurement Standards		Procurement Standards											
.317	Procurements by states	.317	Procurements by states			X	X						
.318	General procurement standards	.318	General procurement standards			X	X						
.319	Competition	.319	Competition			X	X						
.320	Methods of procurement to be followed	.320	Methods of procurement to be followed			X	X						
.321	Contracting with small and minority businesses, women's business enterprises, and labor surplus area	.321	Contracting with small and minority businesses, women's business enterprises, and labor surplus area					X					
		.322	<u>Domestic preferences for procurements</u>	X	X		X						
.322	Procurement of recovered materials	.323	Procurement of recovered materials		X								
.323	Contract cost and price	.324	Contract cost and price		X	X							
.324	Federal awarding agency or pass-through entity review	.325	Federal awarding agency or pass-through entity review		X			X					
.325	Bonding requirements	.326	Bonding requirements		X			X					
.326	Contract provisions	.327	Contract provisions		X	X							
Performance and Financial Monitoring and Reporting		Performance and Financial Monitoring and Reporting											
.327	Financial reporting	.328	Financial reporting		X		X						
.328	Monitoring and reporting program performance	.329	Monitoring and reporting program performance		X	X	X						
.329	Reporting on real property	.330	Reporting on real property		X								
Subrecipient Monitoring and Management		Subrecipient Monitoring and Management											
.330	Subrecipient and contractor	.331	Subrecipient and contractor		X	X		X					

Implementation resources

- ❑ <https://ecfr.federalregister.gov/current/title-2/subtitle-A/chapter-II-beta-site> - Allows user to access current version of 2 CFR and also refer to historical versions
- ❑ FAQs, [*Prohibition on Covered Telecommunications and Video Surveillance Services or Equipment*](#) - addresses questions surrounding updates to section 200.216 of 2 CFR

2CFR Frequently Asked Questions

- ❑ Published May 3, 2021
- ❑ https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf

Effective dates

- ❑ The final regulation indicates two sections were effective on August 13, 2020
- ❑ 200.216 Prohibition on certain telecommunication and video surveillance services or equipment
 - Question 9 of [the telecommunications and video surveillance FAQs](#) indicates these revisions also apply to existing federal awards
- ❑ 200.340 Termination
 - Changes give agencies more authority to terminate awards when they no longer meet program goals

Effective date of changes

- ❑ Remainder of revisions were effective on November 12, 2020

Passcode #1

Subsequent technical corrections made by OMB

- ❑ [*Federal Register notice*](#) issued February 22, 2021, to “clean up” previous issuance
- ❑ Minor technical corrections for references, typos, etc.
- ❑ Only impacts 2 CFR Parts 25 and 200
- ❑ Effective upon issuance
- ❑ CFR online has been updated for these changes

Agency adoption

- ❑ Technically, federal agencies need to take action to adopt the updated regulations in their individual agency regulations
- ❑ 10 federal agencies adopted the original UG by reference and thus do not need to take action to adopt the revisions (i.e., it is automatic)
 - Department of Commerce
 - Department of Homeland Security
 - Gulf Coast Restoration Council
 - Housing and Urban Development
 - Institute of Museum and Library Services
 - National Endowment for Arts
 - National Endowment for Humanities
 - Office of the National Drug Control Policy
 - Social Security Administration
 - Veterans Affairs

Agency adoption

- ❑ We are aware of the following federal agencies that have taken formal action to adopt the regulation in their own regulation
- ❑ National Aeronautics and Space Administration
- ❑ Environmental Protection Agency
- ❑ What about the others?
- ❑ Potential information in 2021 Compliance Supplement – Appendix II

What is Part 25?

- ❑ Provides guidance to federal awarding agencies to establish:
- ❑ The unique entity identifier as a universal identifier for federal financial assistance applicants, as well as recipients and their direct subrecipients, and;
- ❑ SAM is the repository for standard information about applicants and recipients.
- Recipients must provide information required for the conduct of business as a recipient.
- Additional information about registration procedures may be found at the SAM internet site (currently at <https://www.sam.gov>).
- ❑ Not likely to have implications on single audits.

What is Part 170?

- ❑ Provides guidance to federal awarding agencies on reporting federal awards to establish requirements for recipients' reporting of information on subawards and executive total compensation, as required by FFATA
- ❑ Applies to federal awarding agencies' grants, cooperative agreements, loans, and other forms of federal financial assistance subject to FFATA

Reminder: 2020 OMB *Compliance Supplement Addendum* establishes requirement for auditor to test FFATA!

New Part 183

- ❑ Provides guidance to federal awarding agencies on the implementation of the Never Contract with the Enemy requirements applicable to certain grants and cooperative agreements
 - Added to meet statutory requirements
- ❑ Requires federal awarding agencies, before awarding a grant or cooperative agreement, to check the current list of prohibited or restricted persons or entities in the SAM exclusions
- ❑ Provides instructions for a federal awarding agency when it becomes aware of issues in this area
- ❑ Provides federal awarding agencies illustrative award terms to address Never Contract with the Enemy

New Part 183

- ❑ Rule applies only to grants and cooperative agreements that:
 - Exceed \$50,000
 - Are performed outside the US (including territories)
 - To a person or entity that is actively opposing US or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities
- ❑ Not likely to have significant implications on single audits

2 CFR Part 200, Uniform Guidance

Uniform Guidance - UG

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

A Little History

- **Single Audit Act of 1984**
- **A-128 (1984)**
- **A-133 (1990)**
- **Single Audit Act Amendments of 1996**
- **A-133 (2007 revision)**
- ***Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 (December 26, 2013)***
 - Pulled together Administrative Requirements, Cost Principles, and Audit Requirements

Nonfederal entity

Auditors

Federal Agencies

Who uses
Uniform
Guidance

Passcode #2

Uniform Guidance for Federal Awards

Contents

- ▶ **Subpart A - Acronyms and Definitions 200.xx**
- ▶ **Subpart B - General Provisions 200.1xx**
- ▶ **Subpart C - Pre-Federal Award Requirements and Contents of Federal Award 200.2xx**
- ▶ **Subpart D – Post-Federal Award Requirements 200.3xx**
- ▶ **Subpart E - Cost Principles 200.4xx**
- ▶ **Subpart F - Audit Requirements 200.5xx**
- ▶ **Appendix I-XI**

WHAT ARE
SOME OF
THE CHANGES?



[This Photo](#) by Unknown Author is licensed under [CC BY](#)

Definitions

- ❑ Now listed under §200.1
 - Listed alphabetically to facilitate addition of future definitions
- ❑ OMB is standardizing terms across 2 CFR part 200 to support efforts under the Grants CAP Goal
 - Resulted in some new definitions and various revised definitions
- ❑ For definitions that are consistent across 2 CFR parts 25, 170, and 200, revisions have been made to parts 25 and 170 to refer definitions to part 200 as the authoritative source.

Definitions and/or revised definitions identified as substantial in OMB crosswalk

Assistance listing	Federal interest	Management decision	Recipient
Budget and Budget period	Federal share	Micro-purchase and micro-purchase threshold	Renewal award
Capital assets	Financial obligation	Non-discretionary award	Simplified acquisition threshold
Compliance supplement	Fixed amount awards	Notice of funding opportunity	Telecommunication cost
Contract	Grant agreement	Oversight agency for audit	Termination
Cooperative agreement	Highest level	Period of performance	
Discretionary award	Improper payment	Questioned cost	
Federal financial assistance	Internal controls		

Definitional changes of

-
- ❑ *Micro-purchase threshold.* A new definition meaning the dollar amount at or below which a non-federal entity may purchase property or services using micro-purchase procedures
 - ❑ Generally, the micro-purchase threshold for procurement activities administered under federal awards is not to exceed the amount set by the FAR at 48 CFR subpart 2.1 unless a higher threshold is requested by the non-federal entity and approved by the cognizant agency for indirect costs.

Definitional changes

- *Simplified acquisition threshold.* Added the following to existing definition:
 - The non-federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. However, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR subpart 2.1) for the simplified acquisition threshold. Recipients should determine if local government laws on purchasing apply.

Changes in Subpart B, General Provisions

- §200.110 - Effective/applicability date
 - Removes procurement standard grace period and prior effective dates for the original implementation by federal agencies and auditees of the UG
 - Adds effective date guidance for negotiated indirect cost rates
 - Existing negotiated indirect cost rates remain in place until they expire
 - Effective date of changes to indirect cost rates must be based upon the date that a newly re-negotiated rate goes into effect for a specific non-federal entity's fiscal year
 - For indirect cost rates and cost allocation plans, the revised UG (as of the publication date for revisions) both in generating proposal for and negotiating a new rate

Changes in Subpart D, Post Federal Award Requirements

- ❑ §200.317 Procurement by states
- ❑ Updated references for state to comply with to include 200.321 and 200.323 in addition to 200.322 (the new Domestic preferences for procurements provision);
- ❑ Revised to state that all other non-federal entities, including subrecipients, must follow the procurement standards in 200.318-200.327 (revised from “will follow”)

Passcode #3

Changes in Subpart D, Post Federal Award Requirements

- ❑ §200.318 General procurement standards
- ❑ Revised to indicate that non-federal entities must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a federal award or subaward; must also conform to procurement standards in §200.317 through 200.327 of this subpart
 - Old language referred to the non-federal entity’s “own documented procurement procedures”
- ❑ Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

Changes in Subpart D, Post Federal Award Requirements

- §200.319 Competition – clarifies that all procurement transactions for the acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320, Methods of procurement to be followed

Changes in Subpart D, Post Federal Award Requirements

- ❑ §200.320 Methods of procurement to be followed
 - Raised micro-purchase threshold from \$3,500 to \$10,000
 - Raised SAT from \$150,000 to \$250,000
 - Entity may request micro-threshold greater than \$10,000
 - Increases to \$50,000 – self-selection – micro-purchase
 - Grouped procurement methods into three categories: informal, formal, and non-competitive

Category #1 - Informal Procurement Method

- ❑ Informal – When the value of procurement for property or services under a federal award does not exceed the SAT or a lower threshold established by a nonfederal entity, formal procurement methods are not required
- ❑ The informal methods used for procurement of property or services at or below the SAT include:
 - a) Micro-purchases
 - b) Small purchases – higher than micro-purchase but does not exceed the SAT

Micro-purchases

- ❑ Revised micro-purchase awards discussion to clarify that micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-federal entity considers the price to be reasonable “based on research, experience, purchase history or other information and documents its files accordingly.”
- ❑ Also added that “Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-federal entity.”

Micro-Purchase Thresholds



Up to \$10,000 - no action needed



\$10,001 to \$50,000 – Qualify and Self-Certify



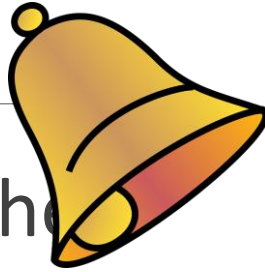
Greater than \$50,000 – Cognizant Agency Approval

DOCUMENT IN WRITING PROCUREMENT PROCEDURES



Your Micro-Purchase Thresholds
and Qualification for Threshold

Micro-purchase thresholds – NEW – self-selection of higher threshold up to \$50,000



- ❑ Non-federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements in procurement section.
- ❑ The non-federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the federal awarding agency and auditors in accordance with §200.334.

Micro-purchase thresholds – NEW – self-selection of higher threshold up to \$50,000



- ❑ The self certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
 - (A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;
 - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
 - (C) For public institutions, a higher threshold consistent with State law.

Micro-purchase thresholds – NEW – over \$50,000 requires cognizant agency approval

- ❑ Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs.
- ❑ The non-federal entity must submit a request with the requirements included on the last slide.
- ❑ The increased threshold is valid until there is a change in status in which the justification was approved.

Passcode #4

Phased-In Approach to new rules

- ❑ Increases in micro-purchase threshold above \$10,000 could lead to bifurcated policies – old vs new awards
- ❑ Additional challenge of delayed Federal agency adoption of the Uniform Guidance limits applicability depending on Federal grants portfolio
- ❑ Focus on grants management systems, procurement controls and procedures



This Photo by Unknown Author is licensed under [CC BY-NC-ND](#)

Small purchases

- ***Small purchase procedures.* The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-federal entity.**

Simplified Acquisition Thresholds

- ❑ The non-federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures, which must not exceed the threshold established in the FAR.
- ❑ When applicable, a lower simplified acquisition threshold used by the non-federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

Category #2 - Formal procurement method

- ❑ Formal – When the value of the procurement for property or services under a federal financial assistance award exceeds the SAT, or a lower threshold established by a non-federal entity, formal procurement methods are required
- ❑ The formal methods used for procurement of property or services include:
 - a) Sealed bids
 - b) Proposals (generally used when conditions are not appropriate for the use of sealed bids)
- ❑ Rules require following documented procedures and public advertising

Category #3 - Noncompetitive procurement

- ❑ Can only be used if certain circumstances apply
- ❑ Much of the rules for noncompetitive procurement are unchanged
- ❑ However, the following was added as one of the circumstances noncompetitive procurement can be used:
 - The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section)

Changes in Subpart D, Post Federal Award Requirements

- ❑ §200.322 – New section on domestic preferences for procurements
- ❑ (a) As appropriate and to the extent consistent with law, the non-federal entity ***should***, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- ❑ In support of Buy American and Hire American – underlying Executive Orders revoked by President Biden

Uniform Guidance: Frequently Asked Questions

- ❑ Issued May 2021

https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf

UG: Frequently Asked Questions (146 Q&A)

#10 – Generally, revisions to the UG apply to Federal awards made on or after the effective date and will not retroactively apply to Federal awards made prior to effective date

#11 – Unless otherwise noted, recipients must update their internal policies to reflect the changes in the UG upon accepting a Federal award made on or after the effective date

UG: Frequently Asked Questions (146 Q&A)

#13 – Federal agencies must review their original adoption to ensure that it aligns with the most current version of the UG. In instances where there is a policy conflict between a Federal agency’s adoption and the revisions in the UG, the adoption must be updated before the revisions become effective for the recipients

#93 – The UG procurement standards apply to only procurements for goods or services that are directly charged to a Federal award

Passcode #5



DOCUMENT IN WRITING PROCUREMENT PROCEDURES

Written Procurement Procedures

- Are you going to have the same procurement procedures for federal dollars and non-federal dollars?
- Is Federal Funding under original UG rules or revised UG rules?
- Consideration of direct and indirect federal expenditures
- Consideration of state and other procurement regulations

Written Procurement Procedures

If you are under revised Uniform Guidance

- ❑ What is your micro-purchase threshold?
 - If greater than \$10,000, ensure you have annual justification support

- ❑ What is your Simplified Acquisition Threshold? (up to \$250,000)
 - Do you wish to have levels of quotes required?
 - \$10,000-\$75,000 – 2 quotes required
 - \$75,000- \$250,000 – 3 quotes required

Other items to share related to
Uniform Guidance and Federal Funding

TIDBITS

De Minimis Rate - Expanded

- ❑ Removed exemption if Non-Federal entity previously had a Federally negotiated indirect cost rate
 - Added condition that Non-Federal entity must not have a current negotiated (including provisional) rate

- ❑ Incorporated previous COFAR FAQ into the Revised UG
 - No documentation is required to justify the 10% de minimis indirect cost rate – no proof of costs 200.414 (f)

UG: Frequently Asked Questions (146 Q&A)

#114 – If a non-federal entity’s last negotiated indirect cost rate was 9 percent MTDC, and the rate has since expired, can the organization elect to use the de minimis rate going forward? Yes. Please inform your cognizant agency.

#122 – Can a recipient conducting a single function, funded predominately by Federal awards, elect to charge the de minimis rate if they currently only charge direct cost to their awards? No.

Subrecipient Monitoring

- Numbering has shifted
 - 200.331 Subrecipient and contractor determinations
 - 200.322 Requirements for Pass-through entities
 - Provide Assistance Listings number
 - If no approved indirect cost rate exists, the pass-through entity must determine the appropriate rate in collaboration with the subrecipient
 - Resolving audit findings specifically related to the subaward and not responsible for cross-cutting findings

UG: Frequently Asked Questions (146 Q&A)

#141 – Are non-Federal entities required to include subtotals of expenditures by Federal agency in the SEFA? No.

#143 – Can an auditee fulfill its responsibility to prepare a summary schedule of prior audit findings and a corrective action plan by having its auditor prepare these documents? No.

Thoughts



The Rules
Keep Changing

Document
Document

Passcode #6

Don't use links in your policies or workpapers



Download and file a pdf

- Links have been constantly changing and updating

Questions?



[This Photo](#) by Unknown Author is licensed under [CC BY-NC](#)

Thank you!

[This Photo](#) by Unknown Author is licensed under [CC BY-NC](#)