OMB Uniform Guidance

Highlights for the University of South Alabama

2 CFR 200 – WHY?

- Streamline guidance for Federal awards
- Reduce administrative burden
- Increase transparency and strengthen oversight of federal spending to reduce fraud, waste and abuse

What is the Super or Omni Circular?

- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) were released on December 26, 2013.

- The Uniform Guidance streamlines and supersedes guidance that was previously contained in eight different OMB Circulars.

- Federal funding agencies are required to implement the Uniform Guidance.

- Included in the new guidance are definitions, uniform administrative requirements (both pre- and post-award), cost principles, and audit requirements.

What is being replaced?

- OMB Circular A-133 (Audits)
- OMB Circular A-110 (Administrative Requirements for Higher Ed, Hospitals and Non-Profits)
- OMB Circular A-21 (University cost principles)
- OMB Circular A-87 (State, Local and Indian Tribal Gov. cost principles)
- OMB Circular A-122 (Not for profit cost principles)
- OMB Circular A-89 (Catalog of Federal Domestic Assistance CFDA)
- OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Government)
- OMB CircularA-50 (Audit follow up)

How is the new Circular organized?

- Preamble: Pgs 78590-78608, Supplemental information and discussion of issues
- Subpart A: Pgs 78608-78617, Acronyms and Definitions
- Subpart B: Pgs 78617-78621, General Provisions
- Subpart C: Pgs 78621-78624, Pre-Federal Award Requirements and Contents of Federal Awards (A-110)
- Subpart D: Pgs 78624-78639, Post Federal Award Requirements Standards for Financial and Program Management (A-110 and A-133)
- Subpart E: Pgs 78639-78662, Cost Principles (A-21)
- Subpart F: Pgs 78662-78672, Audit Requirements

How is the new Circular organized?

- Appendix I: Pgs 78672-78675, Full Text of Notice of Funding Opportunity
- Appendix II: Pgs 78675-78676, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
- Appendix III: Pgs 78676-78682, Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Educations (IHEs)
- Appendix IV: Pgs 78682-78685, Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

How is the new Circular organized?

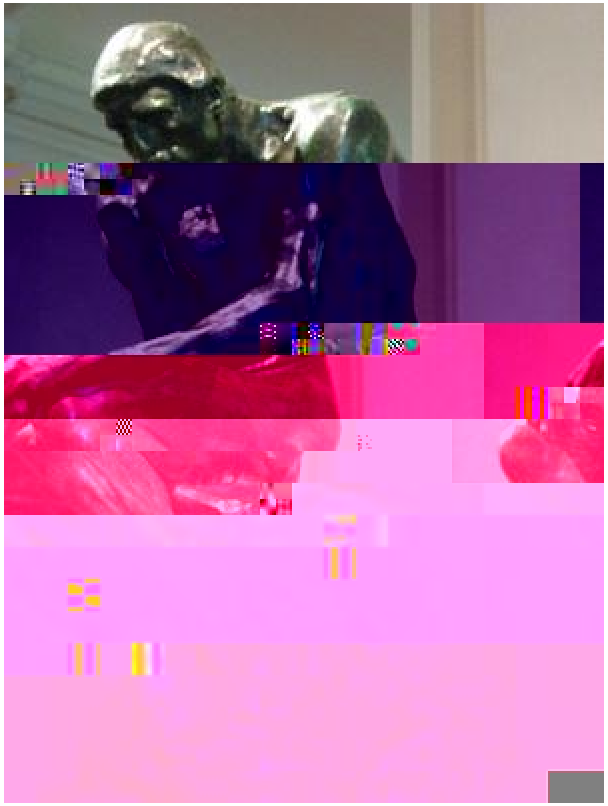
- Appendix V: Pgs 78685-78687, State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans
- Appendix VI: Pgs78687-78688, Public Assistance Cost Allocation Plans
- Appendix VII: Pgs 78688-78691, States and Local Government and Indian Tribe Indirect Cost Proposals
- Appendix VIII: Pg 78691, Non-profit Organizations Exempted From Subpart E – Cost Principles
- Appendix IX: Pg 78691, Hospital Cost Principles
- Appendix X: Pg 78691, Data Collection Form
- Appendix XI: Pg78691, Compliance Supplement

How are the new provisions based?

- Subpart A – Acronyms and Definitions pulls from A-110, A-21 and A-133
- Subpart B – General Provisions; A-110, A-21 and A-133
- Subpart C – Pre-Award Requirements and Contents of Federal Awards; A-110
- Subpart D – Post Federal Award Requirements; A-110 and A-133
- Subpart E – The Cost Principles; A-21
- Subpart F – Audit Requirements, A-133
- Appendix; A-110, A-21 and A-133

Déjà vu?

SHOULD or MUST ?



- SHOULD – denotes a best practice or recommended approach
- MUST – is a directive, a requirement and is mandatory!

Definitions

- The definitions now encompass all requirements (administrative, cost principles and audit) and all types of Grantees
- Some definitions of note:

  200.12 Capital assets now includes software

  200.20 Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information

Definitions (continued)

- 200.22 Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award unless the transaction meets the definition of a subaward.
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Definitions (continued)

- 200.67 Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. The

Definitions (continued)

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Highlights for the University of South Alabama

200.110	Effective/Applicability Date
200.112	Conflict of Interest
200.201	Fixed Price Subawards
200.203	Notices of Funding Opportunities
200.301	Performance Management
200.303	Internal Controls
200.306	Cost Sharing
200.307	Program Income
200.308	Revision of Budget and Program Plans
200.313	EquiTj EMC [illegible]

Effective/Applicability Date

- 200.110 - Effective/Applicability Date - Uniform Guidance administrative requirements and cost principles will apply to new and incremental funding awarded on or after December 26, 2014.

- Existing Federal awards will continue to be governed by the terms and conditions under which they were awarded. ***Note: OMB clarification regarding incremental funding – Federal agencies that consider incremental funding actions as an opportunity to change award terms and conditions may incorporate the Uniform Guidance in increments issued after 12/26/14. Non-Federal entities are NOT required to segregate and track old and new funds but may do so at their discretion.***

- Subpart F, Audit Requirements, will apply to audits of non-Federal entity fiscal years beginning on or after December 26, 2014 (or the first fiscal year that begins after December 26, 2014). ***Note: For USA, this is the fiscal year that begins October 1, 2015.***

- From the university perspective, the Uniform Guidance will supersede OMB Circulars A-110, A-21, and A-133.

Notices of Funding Opportunities

200.203 Notices of Funding Opportunities

- For competitive grants and cooperative agreements, Federal awarding agencies must announce specific funding opportunities by posting a public notice on the OMB-designated government-wide website

- Specifies a set of six data elements that must be included in the public notice: Agency Name, Funding Opportunity Title, Announcement Type, Funding Opportunity Number, CFDA, and Key Dates.

- Establishes minimum timeframe. Federal awarding agencies must generally make all funding opportunities available for at least 60 calendar day - no funding

Performance Measurement

200.301 Performance Measurement

- Provides more robust guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices.
- Federal awarding agencies must require recipients to use OMB-approved standard government-wide information collections to provide financial and performance information.
- Recipients <u>must</u> be required to relate financial data to performance accomplishments, and must also provide cost information to demonstrate cost effective practices.
- Federal awarding agencies, in the award, are to provide clear performance goals, indicators, and milestones/expectations.

Internal Controls

Increased focus on maintaining internal controls

COSO & federal 'Green Book' principles:

Control Environment

1. Demonstrates commitment to integrity and ethical values
2. Exercises oversight responsibility
3. Establishes structure, authority and responsibility
4. Demonstrates commitment to competence
5. Enforces accountability

Risk Assessment

6. Specifies suitable objectives
7. Identifies and analyzes risk
8. Assesses fraud risk
9. Identifies and analyzes significant change

Control Activities

10. Selects and develops control activities
11. Selects and develops general controls over technology
12. Deploys through policies and procedures

Information and Communication

13. Uses relevant information
14. Communicates internally
15. Communicates externally

Monitoring Activities

16. Conducts ongoing and/or separate evaluations
17. Evaluates and communicates deficiencies

Internal Control Integrated Framework, issued by the COSO

- An effective system of internal control reduces, to an acceptable level, the risk of not achieving an objective relating to one, two, or all three categories of objectives;
    1. Operations –

Internal Control Integrated Framework, issued by the COSO (continued)

To be effective, this requires that each of the five components of internal control and relevant principles is present and functioning, and that the five components are operating together in an integrated manner.

1. Control Environment – The control environment is the set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. The control environment comprises the integrity and ethical values of the organization.

2. Risk Assessment – Risk is defined as the possibility that an event will occur and adversely affect the achievement of objectives. Risk assessment involves a dynamic and iterative process for identifying and assessing risks to the achievement of objectives. Risk assessment forms the basis for how risks will be managed.

3. Control Activities –

Internal Control Integrated Framework, issued by the COSO (continued)

4. Information and Communication – Information is necessary for the entity to carry out internal control responsibilities to support the achievement of its objectives. Communication is the continual, iterative process of providing, sharing, and obtaining necessary information.

   – Internal communication - the means by which information is disseminated throughout the organization, flowing up, down, and across the entity.

   – External communication – twofold; it enables inbound communication of relevant external information, and it provides information to external parties in response to requirements and expectations. i.e.; invoicing and payment provisions in awards.

5. Monitoring Activities – Ongoing evaluations, separate evaluations, or some combination of the two are used to ascertain whether each of the five components of internal control, including controls to effect the principles within each component, is present and functioning.

Cost Sharing

200.306 Cost sharing or matching

- Under Federal research proposals, voluntary committed cost sharing is not expected. It cannot be used as a factor during the merit review of

Cost Sharing (continued)

Cost sharing or matching requirements from A-110 remain unchanged in the Uniform Guidance and such contributions still must meet all of the following criteria:

- Verifiable from the non-Federal entities records
- 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
- Are not paid by the Federal government under another Federal award unless authorized by Federal statute
- Are provided for in the approved budget when required by the Federal awarding agency
- Conform to the other provisions of 200.306

Program Income

200.307 Program Income

- Use of program income …For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) [i.e., Additional method] of this section must apply … When the Federal awarding agency authorizes the approaches in paragraph (e)(2) and (3) [i.e., Cost sharing or matching] of this section, program income in excess of any amounts specified must also be deducted from expenditures.

- Program income includes . . . the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, ~~license fees and royalties on patents and copyrights,~~ and principal and interest on loans made with Federal award funds (200.80).

- No federal requirement after award conclusion but the federal awarding agency may negotiate agreements with recipients regarding appropriate uses of income earned after the period of performance as part of the grant closeout process.

Equipment

200.313 Equipment

- Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, useand condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

Supplies

200.314 Supplies

- Title to supplies will vest in the non-

OMB Uniform Guidance
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Uniform Guidance

§ 200.317-326 Procurement Standards

- § 200.320 Method of procurement to be follo

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Monitoring and Reporting Program

Subrecipient Monitoring and Management

200.330 Subrecipient and Contractor Determinations

- Explains the roles of subrecipients and contractors so that the non-Federal entity can determine the relationship and the applicable requirements
- A non-Federal entity provides a subaward to a subrecipient for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship between the non-Federal entity and the subrecipient
- A non-Federal entity provides a contract to a contractor for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship between the non-Federal entity and the contractor
- Pass through entities must make case-by-case determinations whether each agreement it makes for disbursement of Federal program funds casts the party receiving the funds in the role of subrecipient or contractor

Subrecipients

Subrecipients

- Carry out a portion of a Federal award and create a Federal assistance relationship
- Entity is eligible to receive Federal assistance
- Has its performance measured in relation to whether objectives of a Federal program were met
- Has responsibility for programmatic decision making
- Is responsible for adherence to applicable Federal program requirements specified in the award
- Uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods and services for the benefit of a pass-through entity

Contractors

- A contract will be executed for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor
- Provides goods and services within normal business operations
- Provides similar goods and services to many different purchasers
- Normally operates in a competitive environment
- Provides goods and services that are ancillary to the operation of the Federal program
- Are not subject to compliance requirements of the Federal program as a result of the agreement

Subrecipient Risk Assessment

200.331 (b) Evaluate each subrecipients risk of non-compliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring which may include consideration of such factors as:

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Subrecipient Monitoring and Management

200.331 Requirements for pass-through entities includes audit responsibilities that were in A-133

- The pass-through entity must:
  - Put specific information in the subaward, including indirect cost rate
  - Do a risk assessment to determine appropriate subrecipient monitoring AND must monitor subrecipients
  - Consider if specific subaward conditions are needed
  - Verify subrecipients have audits in accordance with Subpart F
  - Make any necessary adjustment to the pass-through entity's records based on reviews and audits of subrecipients
  - Consider actions to address subrecipient noncompliance

Subrecipient Monitoring and Management (continued)

- Following information must be identified to subrecipient at time of award and put in the subaward (and when changes are made to the subaward) (200.331(a)):
  - Federal award identification, e.g., DUNS number
  - Indirect cost rate for the Federal Award (including if the de minimus rate is charge per 200.414) Indirect (F&A) costs requirements imposed by the pass-through entity
  - Requirement to provide access to records for audit

Required Subrecipients Monitoring Procedures

- When monitoring of subrecipients, the pass-through entity must (200.331(d)):
  - Ensure award is used for authorized purpose and goals are achieved
  - Ensure financial and programmatic reports are received and reviewed
  - Follow-up to ensure subrecipient takes appropriate action on all deficiencies pertaining to the subaward from the pass-through entity identified through audits, on-site reviews, and other means
  - Issue a management decision for audit findings pertaining to subawards made by the pass-through entity
  - Verify that subrecipients are audited, as required
  - If applicable, arrange for agreed upon procedures audit

Closeout

200. 343   Closeout

- The Federal 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 …

- (a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.

- (g) 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 Principles – Subpart E

- Indirect Cost Rates
- Compensation – Personal Services (time & attendance)
- Family Friendly Policies
- Support for Shared Services
- 200.407 lists the 22 items that require prior written approval

Important clarification noted in 200.400:

For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees contributing to the completion of Federal awards for research must be recognized in the application of these principles.

Cost Principles

200.414 Indirect (F&A) Costs

A 10% de minimis IDC rate available is now available under 200.414 (f) – It says, “ any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200 . . . may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. Importantly, if chosen, the non-Federal entity must use the 10% rate on all federal awards until the entity negotiates an approved rate with their cognizant agency.

Indirect Costs

200.414 (c) (1) Federal agencies must accept approved negotiated rates, except when;

- Allowed by Federal statue or regulation
- Approved by agency head or delegate, OMB must be notified of deviations

200.414 (f) Affords the 10% MTDC de minimis rate that can be used by new grantees only and can be utilized indefinitely. Importantly, if chosen, the non-Federal entity must use the 10% rate on all federal awards until the entity negotiates an approved rate with their cognizant agency.

Certification

200.415 Required Certifications

- “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. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).’’

- Grantee entities will need to designate post-award financial reporters as authorized officials. Could individuals be liable for criminal prosecution?

Cost Accounting Standards 200.419

Cost Accounting Standards (CAS) 501, 502, 505 and 506 apply to Universities that receive $50 million or more in Federal awards over the course of their fiscal year (had been $25 million)

CAS-covered contracts are always subject to the four standards as well as 48 CFR Part 30 (FAR Part 30)

- The Disclosure Statement Threshold 200.419 (b)
  - This provision also applies to Universities receiving $50 million or more in Federal awards during their most recently completed fiscal year must disclose their cost accounting practices by filing a DS-2
  - Amendments to the DS-2 must be filed six months in advance of a disclosed practice being changed – cognizant agency then has the six month time frame to approve or express concerns

Compensation- Fringe Benefits

200.431 (b) Leave

- The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, and other similar benefits, are allowable if all of the following criteria are met:
  - The are provided for under established written leave policies
  - The costs are equitably allocated to all related activities, including Federal awards
  - The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees
    - (i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminated employment are allowable as indirec.1ab(ec.1ab(.2(i.2

Overdrafts on Sponsored Activities

200.451 Losses on Other Awards or Contracts

- " … Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs."

- If you are not treating overdrafts/over expenditures on awards as a cost share commitment now, you will have to as of next year.

Materials and Supplies

200.453 – Materials and Supplies Costs, Including Costs of Computing Devices

- Paragraph (c) May be charged direct
- Definition of Computing Devices 200.20
- Definition of Supplies 200.94

- Subpart E – Cost Principles 200.453 states that charging computing devices (laptop and desktop computers and associated supplies) as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a federal award.

Computing devices, defined as supplies when the cost is the lesser of the entity's capitalization level of $5000, are subject to the less burdensome administrative requirements of supplies (as opposed to equipment) if the acquisition cost is less than the capitalization threshold.

Publications
Taxes

200.461 – Publication and Printing Costs

- Paragraph (c) resolves a long-standing issue with charges necessary to publish research results, which typically occur after expiration, but are otherwise allowable costs of an award. “The non-Federal entity may charge the Federal award before closeout

Travel Costs – Family Friendly

200.474 (c) (1)

Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

- (i) the costs are a direct result of the individual's travel for the Federal award
- (ii) the costs are consistent with the non-Federal entity's documented travel policy for all entity travel
- (iii) are only temporary during the travel period

Next Steps

- Procurement/Micro Purchases Training – Spring/.7[illegible]

References

Uniform Guidance Crosswalk from Final Guidance to Existing Guidance
http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-crosswalk-to-predominate-source-existing-guidance.pdf

Electronic Code of Federal Regulations
http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=c91bd1410ca120a2d582ffdedfe53fa6&ty=HTML&h=L&n=2y1.1.2.1.1&r=PART#2:1.1.2.1.1.6.51.23.7

Cost Principles Comparison Chart – 2 CFR Part 225 (A-87), 2 CFR Part 220 (A-21), 2 CFR Part 230 (A-122), and Final Uniform Guidance
http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-cost-principles-requirements-text-comparison.pdf

OMB Policy Statement: Uniform Guidance: http://www.whitehouse.gov/omb/grants_docs

Audit Requirements Comparison Chart – OMB Circular A-133 and Proposed Uniform Guidance Subpart F
http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-audit-requirements-text-comparison.pdf

Council on Financial Assistance Reform (COFAR): https://cfo.gov/cofar/

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