

# The Uniform Guidance (2 CFR 200)\*

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**\*THE BRAVE NEW WORLD OF FEDERAL ASSISTANCE**

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# The Uniform Guidance: History

- The Uniform Guidance resulted from two documents issued by the President:
  - The November 23, 2009, Executive Order 13520 on *Reducing Improper Payments* and the February 28, 2011, Presidential Memorandum on *Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments*
- The Office of Management and Budget (OMB) issued two calls for comment on this grant reform
  - A Request for Information in July of 2011
  - An Advance Notice of Proposed Guidance in February 2012
- The Final Rule was published in the Federal Register on December 26, 2013

# The Uniform Guidance: Scope

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- The Uniform Guidance is a massive document that synthesizes and replaces eight previous circulars:
  - A-21 Cost Principles for Educational Institutions
  - A-87 Cost Principles for State, Local and Indian Tribal Governments
  - A-122 Cost Principles for Non-Profit Organizations
  - A-110 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations
  - A-102 Grants and Cooperative Agreements With State and Local Governments
  - A-133 Audits of States, Local Governments and Non-Profit Organizations
  - A-50 Audit Followup
  - A-89 Catalog of Federal Domestic Assistance

# The Uniform Guidance: Scope

- The Uniform Guidance attempts to streamline and harmonize the various circulars
  - Many sections will be very familiar since the language was lifted from the circulars that we know (A-21 & A-110)
  - Some sections will appear new since they were lifted from one of the other circulars
    - ✦ e.g. §200.317- §200.326 *Procurement*
  - A few sections are new or significantly altered from the original text
    - ✦ e.g. § 200.331 (4) Requirements for pass-through entities; use of the 10% MTDC *de minimus*

# The Uniform Guidance: Important Dates

- The Final Rule was published on December 26, 2013
  - Federal agencies were required to submit their implementation of the Uniform Guidance to OMB on June 26, 2014 with the final versions published no later than December 26, 2014
    - ✦ Only NSF has published their plan for public comment
  - The Council on Financial Assistance Reform (COFAR) recently clarified their FAQs and confirmed that the procurement rules (§200.317- §200.326) have been delayed until July 1, 2016

# The Uniform Guidance: Important Dates

- The Uniform Guidance will be effective as of December 26, 2014 for new and continuing awards
- Subpart F Audit Requirements are effective the first full fiscal year after the effective date
  - For UC that would be Fiscal Year 2016

# The Uniform Guidance: Important Dates

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- UCOP convened a workgroup (the Uniform Guidance Workgroup, UGWG) comprised of campus and OP experts in the fields of pre- and post-award administration, costing policy, audit, purchasing and equipment management
- The UGWG has been meeting regularly since January 2014 to review and formulate a plan regarding implementation of the Uniform Guidance
- A draft analysis report was distributed on October 6 for campus input and comment
- A final report is expected to be issued on or around December 1, 2014

# Uniform Guidance: Highlights

- General notes

- The Uniform Guidance is much more focused on internal controls over strict compliance with a set of rules
  - ✦ Guidelines to internal controls, e.g. COSO and the Green Book, are specifically mentioned
- There is an emphasis on performance and transparency
- The Guidance encourages entities to develop “family friendly” policies
- A (very) clear distinction made between “should” (a best practice) and “must” (a required action)
- There is a move away from examples of processes (which can be seen by the audit community as prescriptive) to descriptions of the desired result
  - ✦ e.g. a robust system to document compensation rather than a detailed example of effort-reporting
- **These changes have resulted in greater administrative flexibility for the grantee and also greater responsibility in maintaining internal controls**



# Uniform Guidance: Highlights

- **§200.301 Performance Management**
  - Federal awarding agencies must require recipients to use OMB-approved standard government-wide information collections to provide financial and performance information.
  - Recipients must be required to relate financial data to performance accomplishments, and must also provide cost information to demonstrate cost effective practices.
  - However, for the research community, the standard OMB-approved information collection for performance is the Research Performance Progress Report that does not relate financial information to performance data, and exempts research institutions from this requirement

# Uniform Guidance: Highlights

- §200.303(e) Internal Control for sensitive information – safeguard Personally Identifiable Information (PII)
  - The Uniform Guidance explicitly requires non-Federal entities to take reasonable measures to safeguard PII
  - UC should review policies and procedures to determine if they adequately address protecting PII.
  - Determine whether existing policies and/or controls need to be strengthened, or if new policies and/or controls need to be created to ensure compliance

# Uniform Guidance: Highlights

- §200.314, Supplies:
  - The definition of supplies in existing guidance includes all tangible personal property that fall below the threshold for equipment (\$5,000)
  - Unused supplies less than \$5,000
    - ✦ If not needed for another Federal award, the awardee must compensate Federal government for its share
  - Computing devices (inclusive of accessories) increasingly fall below this threshold, and the guidance makes explicit that when they do, they shall be treated consistently with all other items below this level
    - ✦ While computing devices still need to be tied to the aims of the project, they do not have to be used exclusively on the funded project to be considered a direct cost

# Uniform Guidance: Highlights

- §200.330 Subrecipient and contractor determinations
  - Explains the roles of subrecipients (who contribute to the purpose of the federal award) and contractors (formerly called “vendors”, and who provide goods and services for the non-Federal entity) so that the non-Federal entity can determine the relationship and the applicable requirements
  - What the sub agreement is called (“subaward”, “agreement,” or “contract”) does not matter; the relationship of the subrecipient to the non-Federal entity is the basis for determining the appropriate requirements
  - While not a complete change the Uniform Guidance harmonizes the definitions and actions between the sections
  - The requirement for a case-by-case determination of the relationship should be documented and that *may* increase burden

# Uniform Guidance: Highlights

- §200.331 Requirements for pass-through entities
  - Subrecipients must be monitored to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward
  - The Uniform Guidance provides recommendations, but does not specify how the pass-through entity should conduct that monitoring
  - Any monitoring would need to comply with the overall need for sufficient internal controls to meet the requirements in this section
  - Pass-through entities must honor subrecipient negotiated F&A rate or use 10% de minimis rate, or negotiate one with the subrecipient.

# Uniform Guidance: Highlights

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- §200.332 Fixed amount subawards
  - The uniform guidance allows for the use of fixed amount (fixed-price) subawards but:
    - ✦ Only with the prior approval of the Federal awarding agency
    - ✦ Only up to the Simplified Acquisition Threshold (\$150,000)
  - Prior approval may be inferred if the intent is included in a proposal submission and awarded
  - The \$150,000 cap may be problematic for some projects

# Uniform Guidance: Highlights

- §200.343 Closeout
  - Campuses must complete final reporting, invoicing, and cash draws within 90 days of the end of the performance period or risk not being able to recover funds expended
  - Although this requirement is not new, the Uniform Guidance codifies it and imposes a hard stop to adjustments
  - This could prove challenging in the management of subawards

# Uniform Guidance: Highlights

- §200.344 Post-closeout adjustments and continuing responsibilities
  - Revised language in the Uniform Guidance adds the requirement that the Federal awarding agency or pass-through entity must make any cost disallowances and notify the non-Federal entity within the record retention period
    - ✦ Guidance in A-110 did not have a time frame during which this must happen.
  - The language notes that a Federal awarding agency expects a refund due to adjustments to final indirect rate negotiations



# Uniform Guidance: Highlights

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- **§200.407 - Prior Written Approval**
  - Provides a one-stop comprehensive list of the circumstances under which non-Federal entities should seek prior approval from the Federal awarding agency
  - NB: this section is inclusive of all prior approval actions, not just award actions, so there are sections (e.g. compensation) that would not be applicable to specific award administration

# Uniform Guidance: Highlights

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- **Prior Approval: §200.308 Revision of budget and program plans**
  - *(3) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator*
- **"Absence" is replaced with "disengagement"**
  - A PI can be away from campus and remain engaged in the project
  - This change in the language allows for more flexibility in when prior approval is needed
  - However, this could also result in increased monitoring of the PI's contact with a project when away from the campus for extended periods

# Uniform Guidance: Highlights

- §200.413 – Direct Costs (c) Salaries of administrative and clerical staff
  - The Uniform Guidance allows for the direct charging of administrative and clerical salaries, so long as certain conditions are met:
    - ✦ Administrative or clerical services are *integral* to a project or activity;
    - ✦ Individuals involved can be specifically identified with the project or activity
    - ✦ Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency
    - ✦ The costs are not also recovered as indirect costs
  - A justification should be included in proposals that addresses the criteria above to facilitate the required agency approval for these charges
  - Any post-award addition of administrative salaries to a budget would require prior written approval of the funding agency

# Uniform Guidance: Highlights

- §200.456 – Participant Support Costs
  - Now a federal-wide concept
  - Are defined as direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.
  - Participant support costs will be an exclusion in the MTDC base

# Uniform Guidance: Highlights

- §200.461 Publication and printing costs
  - The Uniform Guidance provides institutions additional flexibility to charge Federal awards after the performance period for page charges in professional journals
  - This may require a system/procedure change to allow costs to post to an award after the performance period
    - ✦ Late charges can create issues for meeting 90 day closeout requirement for Federal awards

# Uniform Guidance: UCOP Actions

- In the short term, issue a joint memo that clarifies that the Uniform Guidance will take precedence over the C&G and Accounting Manuals where there is a conflict
- Review, update, and/or rescind guidance manuals and memos
- Provide guidance on best practices for setting up and maintaining internal controls

# Uniform Guidance: UCOP's Approach

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- **Phase One (Jan – Dec 2014)**
  - Assess & analyze the Uniform Guidance
  - Inform the campuses and share approaches
  - Issue interim guidance, as needed
  - Issue Assessment document on or about December 1
- **Phase Two (Jan – June 2015)**
  - Update guidance & policies as needed
  - Update DS2s as needed
  - Update training & support, as needed
- **Phase Three (Jul – ~Dec 2015)**
  - Update support systems, as needed
  - Other long-horizon actions needed

# Uniform Guidance: UCOP's Approach

- RPAC website on the Uniform Guidance.:
  - <http://www.ucop.edu/research-policy-analysis-coordination/research-sponsors-agreements/federal-government/uniform-guidance/index.html>



# Uniform Guidance

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# Questions?