

Frequently Asked Questions

Updated: September 2015

For The Office of Management and Budget's
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
At 2 CFR 200

The following are frequently asked questions presented by the COFAR on OMB's Uniform Guidance at 2

.101-

200.303	15
.303-1 Should vs Must and Internal Controls	15
.303-2 (previously Q III-5) Should vs. Must In General	15
.303-3 (Previously Q III-4) Should vs Must and the Green book.....	16
200.305	16
.305-1 Application of 200.305(b) advance payments to payments by States *	16
200.306	16
.306-1 Exceptions in Statute for restrictions on cost sharing or matching.....	16
200.307	16
.307-1 Fees and Royalties and Bayh-Dole.....	16
200.309	17
.309-1 (Updated from the previous Q III-2) Period of Performance and No-Cost Extension .	17

200.332	21
.332-1 Fixed Amount Subawards	21
200.400	22
.400-1 Fixed Amount Subawards and Profit	22
.400-2 Dual Role of Students and Post-Doctoral Staff	22
.400-3 (Previously Q III-3) Profit and Nonprofits	22
200.401	22
.401-1 Fixed Amount Awards and Cost Principles	22
200.403	23
.403-1 Requirement for Compliance with Applicable Laws and Regulations *	23
200.413	23
.413-	

200.430 27

Appendix III-1 Utility Cost Adjustment.....

200.23

.23-1 Vendor vs Contractor and

.54-2 Indian Tribes Removed from Definition of State- GAAP

Also related to section 200.54, the previous guidance allowed non-Federal entities to submit financial statements under a cash basis. Does this new definition scope Indian tribes out of using the cash or modified-cash basis method of submitting financial statements?

No. Neither the Single Audit Act Amendments of 1996 (SAA) nor the Uniform Guidance require non-Federal entities to submit financial statements in accordance with generally accepted accounting principles (GAAP). Cash or modified-cash basis financial statements may be submitted to meet the requirements of 2 CFR 200 subpart F. However, the SAA (31 USC 7502(e)(1)) and the Uniform Guidance (2 CFR 200.514(b)) require the auditor to determine whether the financial statements submitted to comply with the SAA are presented fairly in all material respects in accordance with GAAP. See also section 200.403 Factors Affecting Allowability of Costs, paragraph (e).

.54-3 (previously Q III-6) Tribes Removed from Definition of State- Implications for Applications

In section 200.54 Indian tribes were removed from the definition of a state. How will this impact the application process for funds reserved for states? Will tribes no longer qualify?

Under the Uniform Guidance, the application process for funds reserved for states. These definitions are applicable only to the Uniform Guidance at 2 CFR 200 unless specifically indicated otherwise.

200.68

.68-1 Determination of Modified Total Direct Cost (MTDC) for Subaward(s) *

In the definition of Modified Total Direct Cost (MTDC) base, does the "regardless of the period of performance of subawards under the award" mean that if the subaward(s) to the subrecipient is made up of several separately executed funding agreements, in the course of the period of performance does each separate subaward

Yes. All awards made on or after 12/26/2014 will be made with terms and conditions subject to the Uniform Guidance. Applications that are submitted before 12/26/2014 for Federal awards to be made on or after 12/26/2014 should be developed in accordance with the Uniform Guidance.

.110-5 Effective Dates, Applications, and DS-2s

May IHEs submit applications that are inconsistent with their DS-2 statement if that application is made in order to reflect the Uniform Guidance? For example: May IHE's submit applications with budgets that include administrative support or computing devices in the proposal budget?

Yes. All awards made on or after 12/26/2014 will be made according to the new uniform guidance, and applications for Federal awards that would be granted after that date should reflect the new guidance. The new guidance will apply to new Federal awards made after that date and, if a Federal awarding agency considers its incremental funding actions to be opportunities to change terms and conditions on previously made awards, the new guidance will apply to that Federal awarding agency's incremental funding actions also. DS-2 statements that need to be revised to reflect new policies should be revised as soon as possible after 12/26/2014. Non-Federal entities will not be penalized for discrepancies between their approved DS-2 and actual charging practices in accordance with the new uniform guidance, provided that an updated DS-2 (consistent with actual charging practices) has been revised and submitted in accordance with FAQ .110-3.

.110-6 Effective Dates and Grace Period for Procurement **

Will the Federal government provide a grace period after the effective date for non-Federal entities to comply with the procurement standards in the Uniform Guidance?

Yes, for two full fiscal years after the effective date of the Uniform Guidance. In general non-Federal entities must comply with the terms and conditions of their FeendiTd(-)Tj-heheir (m G)0.5(uj-2.6(he).3(5(dde)9.0.5(ujhTd(-))2.7(h.0.5(ujTd(-)ld(-)lc

.110-8 Effective Dates and Formula & Entitlement Programs

How does the effective date impact formula and entitlement programs?

The effective date in section 200.110 effective/applicability date applies to formula and entitlement awards that are covered by the Uniform Guidance as it does to other awards.

.110-9 Effective Dates and Consistent Implementation (Federal)

What processes and procedures are (or will be) in place to ensure that the changes in the OMB Guidance will be consistent across the different Federal agencies?

OMB is working with the COFAR and other Federal agencies across the government to ensure consistent implementation of the Uniform Guidance across Federal agencies.

.110-10 Effective Dates and Consistent Implementation (States)

What processes and procedures are (or will be) in place to ensure that the changes in the OMB Guidance will be consistently interpreted across all s4w()T Co (Stath (3.084 0 Td(MC /P A/CID 8MCI542c4(d)-6.1(6(s)4.()T)-9rp)Thenses ao

.112-2 Conflict of Interest – Scientific Collaborations *

Section 200.112 states “The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.”

FAQ 112-1 confirmed that this requirement does not refer to scientific conflicts of interest that may apply to projects supporting research. Scientific collaborations on research and development projects are generally the result of close collaboration prior to the submission of applications for support. Accordingly, virtually all of these collaborations might be considered to include a potential conflict of interest. The potential conflict is mitigated by the disclosure of these collaborations pursuant to agency requirements.

Does Section 200.112 apply when a pass-through entity awards a subaward to support scientific collaboration on a research and development project?

Yes. When a subaward for scientific collaboration on a research and development project is included in the application for assistance or requested for prior approval and approved by the Federal awarding agency, the disclosure of any potential nonscientific conflict of interest, if required by the Federal awarding

Virtually all of the world's population is part

Yes, income from license fees and royalties on research funded by a Federal award should be excluded from the definition of program income. U.S. law or statute takes precedent over the Uniform Guidance.

200.309

.309-1 (Updated from the previous Q III-2) Period of Performance and No-Cost Extension

Section 200.309 Period of Performance says that costs may be incurred only during the period of performance.

Does this mean that the agency regulations will no longer be able to allow no-cost extensions as a normal course

sources." It leaves the discretion of the non-Federal entity written policy

No. The Uniform Guidance procurement standards do not apply to procurements made in indirect cost areas. They apply to procurements for goods and services that are directly charged to a Federal award.

200.323

.323-1 Negotiation of profit *

Section 200.323, paragraph (b) requires that the non-Federal entity 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 analysis is performed. Is the negotiation of profit required for all sole source procurements above \$3,000 up to the small purchase threshold of \$150,000?

No. Section 200.323, paragraph (a) states that a cost or price analysis is required for procurement actions in excess of the simplified acquisition threshold.

200.331

.331-1 Pass-through Entities, Indirect Cost Rates, and State Funds

When a pass-through entity uses Federal and non-Federal funds

and apply only one set of terms and conditions to all the funds, the terms and conditions of that arrangement must be agreed to in advance by all participating Federal awarding agencies.

.331-5 Indirect Cost Rates and Entities Who Do Not Have Indirect Costs

2 CFR 200.210(a)(15), 2 CFR 200.331(a)(1)(xiii) and (a)(4) all make reference to indirect cost rates as a requirement for recipients and subrecipients. Not all entities charge indirect cost rates. Will they now be forced to establish such rates?

No. Non-Federal entities that are able to allocate and charge 100% of their costs directly may continue to do so. Claiming reimbursement for indirect costs is never mandatory; a non-Federal entity may conclude that the amount it would recover thereby would be immaterial and not worth the effort needed to obtain it.

.331-6 Pass-through Entities and Indirect Cost Rate Negotiation

This section states that pass-through entities are expected to honor a subrecipient's negotiated F&A rate agreement, or use a 10% MTDC de minimis rate, or negotiate an F&A rate with the subrecipient. Is it acceptable to require a subrecipient to accept a rate lower than 10% MTDC via negotiation, or in lieu of their negotiated F&A rate? If a subrecipient requests to establish a rate via negotiation, does the pass-through entity have to establish the rate via negotiation?

If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate. The cost principles are designed to provide that the Federal awards pay their fair share of the costs recognized under these principles. (See section 200.100(c).) Pass-through entities may, but are not required, to negotiate a rate with a proposed subrecipient who asks to do so.

.331-7 Indirect Cost Rates and non-Compliance with Guidance

What should I do if my pass-through entity won't honor my entity's federally negotiated indirect cost rate agreement?

You may wish to remind your pass-through entity of their obligation under the uniform guidance in part 200.331. As with any instance where a non-Federal entity does not comply with the guidance, the pass-through entity will

these types of awards. In other words, the recipient and the Federal agency, or the pass-through entity and the subrecipient, will use the principles along with historic information about the work to be performed to establish the amount that should be paid for the work to be performed. Once the price is established and the fixed amount award or subaward is issued, payments are based on achievement of milestones (e.g., per patient, per procedure, per assay, or per milestone) and not on the actual costs incurred.

200.403

.403-1 Requirement for Compliance with Applicable Laws and Regulations *

Section 200.403 does not specify a requirement for compliance with Federal, state, local, tribal, and other laws and regulations. Is this requirement otherwise addressed in the Uniform Guidance?

Yes. Compliance with applicable laws and regulations is included at Sections 200.303 Internal Controls, and 200.404 Reasonable costs.

200.413

.413-1 What Counts as Prior Approval

I have a Federal award that qualifies as a major project or activity and I'm directly charging administrative costs to it. When I receive incremental funding on my project next spring, I understand I am going to now need prior written approval

For example, a non-Federal entity with a current negotiated rate for 7/1/15-6/30/16 requests an extension of that rate for 3 years, until 6/30/19. If approved by the cognizant agency for indirect costs, the non-Federal entity is required to submit a proposal and request a negotiation of an indirect cost rate for the period beginning 7/1/19. Assuming these are predetermined rates effective until 6/30/23, the non-Federal entity could then request an extension of the current negotiated rate at the end of this approved period (6/30/23), prior to the submission of a proposal for negotiated rates in the next period. "Current negotiated rates" include only "predetermined" and "final" rates (not "provisional" or "fixed" rates).

[.414-3 Documentation Required for Extension](#)

Section 200.414(g) allows any non-Federal entity that has a federally negotiated indirect cost rate to apply for a one-time extension of its current negotiated indirect cost rates for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. Are there any documentation requirements that must be submitted? Are non-Federal entities eligible for multiple four-year extensions?

See FAQ .414-2. The intent of allowing for indirect cost rate extensions is to minimize the administrative burden for the non-Federal entity. As such, documentation requirements to support a four-year indirect cost rate extension should be kept to a minimum. A non-Federal entity can apply for a one-time extension (up to four years) on its most current negotiated rate. Subsequent one-time extensions (up to four years) are available if a renegotiation is completed between each extension request. Once there is a new negotiated indirect cost rate in effect, a non-Federal entity could request a one-time extension on that rate.

[.414-4 Timing of Request for Extension](#)

When should an institution contact the cognizant agency for indirect costs to request extension of their current negotiated rate?

the costs of auditing the financial statements are allowable for non-Federal entities subject to the requirements of the Single Audit Act.

.425-3 Performance Audits *

State governments, and other non-Federal entities, perform audits that are not required by the Single Audit Act or Subpart F, such as Performance Audits. Are these costs allowable under the Uniform Guidance section 200.425(a)?

No. The costs of audits that are not required by the Single Audit Act or Uniform Guidance Subpart F are not allowable under section 200.425(a)

.425-4 Financial Statement Audits by Entities Exempted from Single Audit and Subpart F *

If a non-Federal entity is exempted from the requirements of the Single Audit Act and Subpart F, would it be permissible to charge the costs of a financial audit under section 200.425?

Yes. The costs of a financial statement audit, including those performed under GAGAS, by an entity exempted from the Single Audit Act, are not fully equivalent to audits conducted in accordance with the Single Audit Act Amendments of 1996. Accordingly, the costs of such financial statement audits are not prohibited by section 200.425 and inclusion of a proportionate share of the cost of these audits may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

.425-5 Internal Audit Functions *

Many non-Federal entities rely on internal audit functions, as a critical component of their program of internal controls, to assure compliance with the terms of awards as required under section 200.303 Internal controls. The costs of internal audit ser

indirect cost." Please verify tribes will now be required to obtain approval from IBS due to the "If approved by cognizant agency for indirect cost".

Yes. This is not a policy change.

200.431

.431-1 Fringe Benefits and Indirect Costs **

Will the COFAR consider deleting the requirement in sections 200.431(b)(3)(i) and 200.431(e)(3) that fringe benefits be charged as indirect costs when the non-Federal entity is using a cash basis of accounting?

Yes. Based on the COFAR's recommendation, OMB issued a technical correction in December 2014 of the Uniform Guidance implementing regulations to delete the requirement that indirect costs be used to charge payments of unused leave, worker's compensation, unemployment compensation, severance pay, and similar employee benefits.

.431-2 Charging Payments of Unused Leave to Employees Terminating or Retiring *

In accordance with section 200.431(b)(3)(i), can the state, local and Indian Tribal governments using the cash basis of accounting with unfunded/unrecorded leave liabilities charge unused leave (payments to employees that retire or are terminated) directly to Federal programs?

No. Charging all unused leave costs for separating employees in the same manner as it had charged the employees' salary costs (i.e., directly to the activities on which the employees were working at the time of their separation) would result in inequitable distribution of the unused leave costs, because the leave costs were accumulated over the entire period of employment while working on various programs. In addition, having the last program bear the burden of these unbudgeted costs creates an unfair distribution of costs to this program. Therefore, any state, Local or Tribal government using the cash basis of accounting should allocate payments for unused leave, when an employee retires or terminates employment, in the year a8yme3-4.4(et)-6-2.1(d c)6.3(hd(f)8.0

Yes, this qualification is limited to instances of cost sharing or matching as described by 200.436(c) above it, from which it follows. 200.436(c) is copied here with emphasis in bold added: “(c) **Depreciation is computed applying the following rules.** The computation of depreciation must be based on the acquisition cost of the assets involved. **For an asset donated to the non-Federal entity by a third party,** its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both.

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<http://www.whitehouse.gov/sites/default/files/omb/assets/omb/memoranda/m01-06.pdf>

200.502

502-1 Basis for determining Federal awards expended *

Section 200.502(a) requires that the determination of Federal awards expended must be based on when the activity related to the Federal award occurs. Does this require that this determination be based on accrual accounting and preclude basing this determination on a cash or modified accrual basis consistent with the accounting practice of the non-Federal entity? 4Tc 0 Tw 12.446 0.768 A1.9(eu)1.8(ne)1.9(di-5.9(t)JJEMC1.9(de)9(d o)15.9(nc1.9(c

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7. Encouraging non-Federal entities to have family-friendly policies:

Uniform Guidance provide flexibilities that, when implemented by non-Federal entity-wide policy, better allow for employees of non-Federal entities to balance their personal responsibilities while maintaining successful careers contributing to Federal awards, resolving an issue that has been identified as one that often prevents women from maintaining careers in science.

8. Strengthening oversight:

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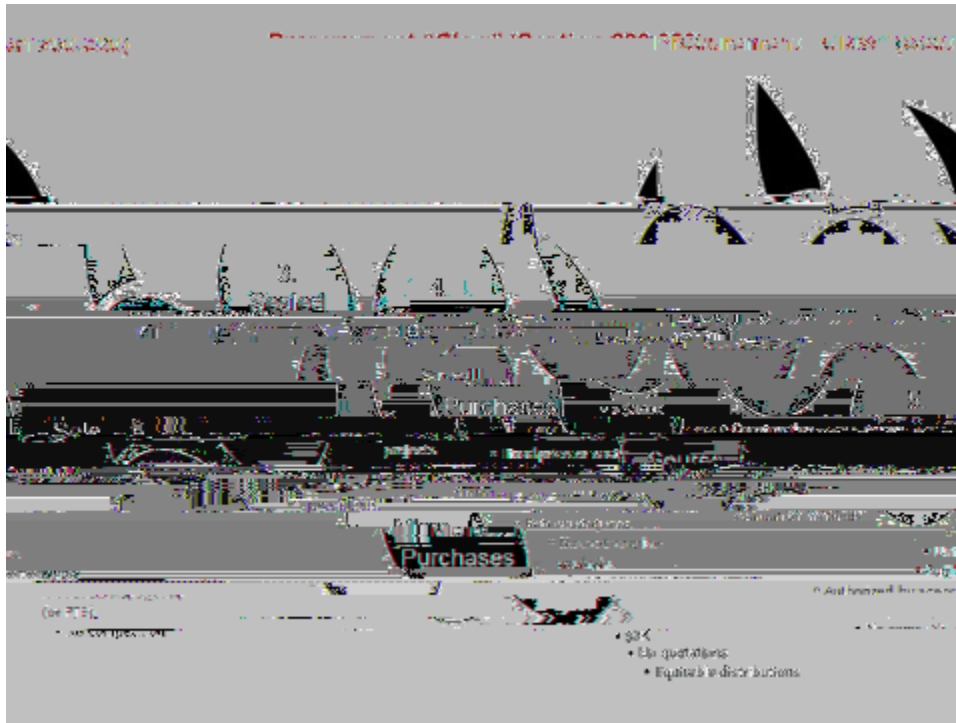
Q I-9: What are the other COFAR priorities this year?

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here: <https://cfo.gov/wp-content/uploads/2013/12/2013-12-04-COFAR-Priorities-forPrincipals.pdf>
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Q I-10: Reponses to comments. Beyond the preamble to the Federal Register notice publishing 2 CFR 200 (and the provisions themselves), does OMB plan any further responses to the comments of those who responded to the February 2013 version?

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periodically to reflect further COFAR clarifications where needed.

Attachment 1: Procurement "Bear claw"



Procurement "Claw" (Sections 200.317-326)

