

**The Omni Circular and How It Will Change Grants Management Requirements**

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**AGENDA**

- Background on Uniform Grants Guidance
- Allowability
  - Basic Cost Principles (Including Time and Effort Documentation)
- Grants Management Systems
  - Financial Management, Procurement, Inventory
- Sub recipient Monitoring

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**Key Dates**

Feb 1, 2013	Notice of Proposed Rulemaking
Dec 26, 2013	Grants Guidance Published Federal Register <a href="http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf</a>
June 26, 2014	Draft Regulations Due to OMB
August 29, 2014	COFAR Releases FAQs
Dec 26, 2014	Final Regulations Published

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### DATE OF APPLICABILITY OF REVISED RULES



OMB stated on 12/20/13 that the Grants Guidance would apply to all drawdowns after December 26, 2014

■ Clarified in COFAR FAQs!

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### WHAT IS COVERED?

- A-21 – Cost Rules – Rules – IHEs
- A-87 – Cost Rules – State / Local Gov't
- A-122 – Cost Rules – Nonprofit
- A-102 – Administrative Rules State / Local Gov't
- A-110 – Administrative Rules IHEs
- A-133 – Audit Rules

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### WHO IS COVERED?

- All “nonfederal entities” expending federal awards
- Non-Federal Entity 200.69



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### MOST SIGNIFICANT GENERAL CHANGES

- Shift from focus on *Compliance* to focus on **PERFORMANCE!!!**
  - Auditors (A-133 + Federal OIG) and Monitors (Federal and State Pass Through) must look more to “outcomes” than to “process”
  - The Omni Circular adds significant flexibility to way grantees / subgrantees can adopt their own processes

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### MOST SIGNIFICANT GENERAL CHANGES (CONT.)

- The Omni Circular has a **MAJOR** emphasis on “strengthening accountability” by improving policies that protect against waste, fraud and abuse

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### NEW: REQUIRED CERTIFICATIONS 200.415

- **NEW:** Official authorized to legally bind the non-federal entity **must certify on annual and final fiscal reports or vouchers requesting payment:**
  - “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.”

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THE MORE ATTENTION PAID TO FINANCIAL MANAGEMENT CONTROLS, FEWER HEADACHES DOWN THE ROAD!!!

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## FINANCIAL MANAGEMENT CONTROLS

THE KEY COMPONENT TO FEDERAL GRANTS



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### CROSSWORK BETWEEN CURRENT RULE AND OMNI CIRCULAR 200.302(B)

<u>Current Requirements</u>	<u>2 CFR 200.302 (b)</u>
1. Financial Reporting	1. Identification of Awards (NEW)
2. Accounting Records	2. Financial Reporting
3. Internal Control	3. Accounting Records (Source Docs)
4. Budget Control	4. Internal Control
5. Allowable Cost	5. Budget Control
6. Source Documentation	6. Written Cash Management Procedures (NEW)
7. Cash Management	7. Written Allowability Procedures (NEW)

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### 1) IDENTIFICATION OF AWARDS (NEW)

- All federal "awards" received and expended
- The name of the federal "program"
- Identification # of award
  - CFDA Title and Number
  - Federal Award I.D.#
  - Fiscal Year of Award
  - Federal Agency
  - Pass-Through (If S/A)



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### 2) FINANCIAL REPORTING

- New shift to OMB approved performance metrics



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### 2) FINANCIAL REPORTING (CONT.)

- Generally requires accurate, current, complete disclosure of financial results of each award
  - **NEW: 200.327** – Federal awarding agency can only collect OMB approved data elements, **no less than annually, no more than quarterly**
  - **NEW: 200.328** – Non federal entity must submit performance reports at intervals required by federal agency or pass through.
    - Annual performance reports due 90 days after reporting period; Quarterly performance reports due 30 days after reporting period

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## 2) FINANCIAL REPORTING (CONT.)

### NEW Performance Metrics:

1. Compare actual accomplishments to objectives. (quantify to extent possible)
2. Reasons goals were not met if appropriate
4. Additional pertinent information (e.g. analysis and explanation of cost overruns, high unit costs) Significant developments
  - a. Problems, delays. Adverse conditions that would impair ability to meet objective of the award
  - b. Favorable developments. Finishing sooner or at less cost

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## 3) ACCOUNTING RECORDS (SOURCE DOCUMENTATIO

Combines current requirements:

### Source Documentation Must Be Kept On:

1. Federal Awards
2. Authorizations
3. Obligations
4. Unobligated balances
5. Assets
6. Expenditures
7. Income
8. Interest (New) (*Eliminated liabilities*)

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## 4) INTERNAL CONTROLS

Essentially same as current requirements:

### Effective control over and accountability for:

1. All funds
  2. Property
  3. Other assets
- Must adequately safeguard all assets
  - Use assets solely for authorized purpose

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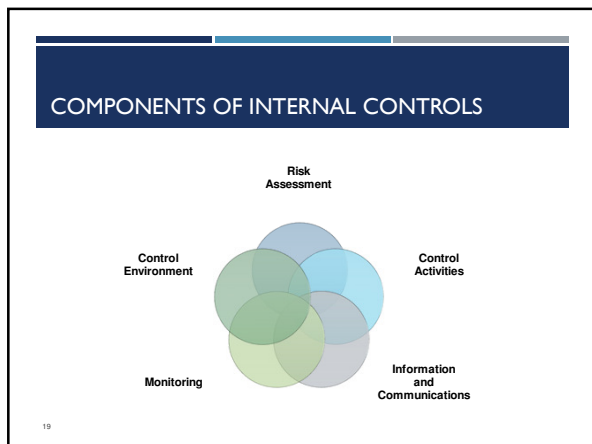
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### 4) INTERNAL CONTROL 200.303

- Cross reference 200.303 (New)
- Internal controls “should” be in compliance with the Comptroller General’s :
  - Standard for Internal Control Integrated Framework; and
  - Internal Control Integrated Framework
    - Both issued by the Committee of Sponsoring Organizations of the Treadway Commission

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### 4) INTERNAL CONTROL 200.303 (CONT.)

- Internal Controls must ensure compliance with federal statutes, regs, terms of the award.
- Entities must:
  - Evaluate and monitor compliance
  - Take prompt action when instances of noncompliance are identified; and
  - Safeguard protected personally identifiable information (PII)

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**5) BUDGET CONTROL**

- Same as current rules.
- Comparison of expenditures with budget amounts for each award

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**6) WRITTEN CASH MANAGEMENT PROCEDURES**

- For states, payments are governed by Treasury – State CMIA agreements 31 CFR Part 205
  - No Change
- For all other non federal entities, payments must minimize time elapsing between draw from G-5 and disbursement (not obligation)

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**6) WRITTEN CASH MANAGEMENT PROCEDURES 200.305**

- Written procedures must describe whether non-federal entity uses:
  - 1) Advance Payments (preferred)
    - Limited to minimum amounts needed to meet immediate cash needs
  - 2) Reimbursement
    - Pass through must make payment within 30 calendar days after receipt of the billing
  - 3) Working Capital Advance
    - The pass through determines that the nonfederal entity lacks sufficient working capital. Allows advance payment to cover estimated disbursement needs for initial period

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### 6) WRITTEN CASH MANAGEMENT PROCEDURES 200.305 (CONT.)

- **NEW:** Advances must be maintained in insured accounts
- **NEW:** Pass through cannot require separate depository accounts
- **NEW:** Accounts must be interest bearing unless:
  1. Aggregate federal awards under \$120,000
  2. Account not expected to earn in excess of \$500 per year
  3. Bank require minimum balance so high, that such account not feasible

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### 6) WRITTEN CASH MANAGEMENT PROCEDURES 200.305 (CONT.)

- **NEW:** Interest amounts up to \$500 may be retained by non federal entity for administrative purposes
  - Currently \$100 for State and local Gov'ts
  - Currently \$250 for IHEs and Non-profits.
- Interest earned must be remitted annually to /DOLED/HHS, etc.

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### 7) WRITTEN ALLOWABILITY PROCEDURES

- **NEW:** Written procedures for determining allowability of costs in accordance with Subpart E – Cost Principles

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### 7) WRITTEN ALLOWABILITY PROCEDURES (CONT.)

- Procedures can not simply restate the Uniform Guidance Subpart E
- Should explain the process used throughout the grant development and budget process
  - Training tool and guide for employees

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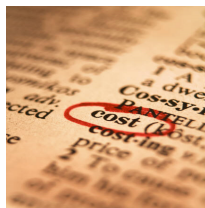
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### SUBPART E – COST PRINCIPLES



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### COST PRINCIPLES: "FACTORS AFFECTING ALLOWABILITY OF COSTS" 200.403

#### All Costs Must Be:

1. Necessary, Reasonable and Allocable
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. *Net of applicable credits (moved to 200.406)*
8. Adequately documented

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### PRIOR WRITTEN APPROVAL 200.407

- **NEW:** In order to avoid subsequent disallowance:
  - Non-Federal entity may seek prior written approval of cognizant agency (for indirect cost rate) or Federal awarding agency in advance of the incurrence of special or unusual costs

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### PROGRAM INCOME 200.307

- Non-Federal entities are encouraged to earn income to defray program costs where appropriate.
  - Costs of generating program income may only be deducted if:
    - Authorized by federal regulations or the Federal award;
    - Costs are incidental and not charged to the Federal award.
  - Property from the sale of real property or equipment is not program income – apply post award property rules.
- **NEW:** Program Income Must Be Deducted from Total Allowable Costs
  - With prior approval may Add to Federal Award.

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### DIRECT V. INDIRECT COSTS 200.413

- **NEW:** Salaries of administrative and clerical staff should be treated as “indirect” unless all of following are met:
  1. Such services are integral to the activity
  2. Individuals can be specifically identified with the activity
  3. Such costs are explicitly included in the budget
  4. Costs not also recovered as indirect

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### CONTRACT VS. GRANT 200.330

- No change from the current requirement.
- Entities must clearly determine what is a subgrant and what is a contract.
  - Note the difference!!



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### SELECTED ITEMS OF COST

THE "OMNI" NOW HAS 55  
SPECIFIC ITEMS OF COST!  
200.420



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### SELECTED ITEMS OF COST EXAMPLES

- **Advertising/PR 200.421 (Clarified)**
  - Allowable for programmatic purposes including:
    - Recruitment
    - Procurement of goods
    - Disposal of materials
    - Program outreach
    - Public relations (in limited circumstances)
- **Alcohol 200.423**
  - Not allowable

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**SELECTED ITEMS OF COST (CONT)**

- **Conferences 200.432 (Changed)**
  - Prior Rule: Generally allowable
  - Includes Meals / Conferences / Travel and Family Friendly Policies
  - Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
  - **New:** Costs related to identifying, but not providing, locally available dependent-care resources
    - **New:** But 200.474 "travel" allows costs for "above and beyond regular dependent care"
  - Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner than minimizes costs to federal award

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**SELECTED ITEMS OF COST (CONT)**

- **NEW: Collections of Improper Payments**
  - The costs incurred by the non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate.

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**SELECTED ITEMS OF COST (CONT)**

- **Entertainment Costs 200.438 (Clarified)**
  - Cost of entertainment are unallowable
    - Amusement, Diversion, Social Activities
  - Except where costs might otherwise be considered programmatic and are authorized or have prior written approval of the Federal awarding agency.
- **Fines, Penalties, Damages and other Settlements 200.441**
  - If related to violation, alleged violation or failure to comply with Federal, state, tribal, local or foreign law and regulations then unallowable.
  - Except with prior written approval of Federal awarding agency.

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### SELECTED ITEMS OF COST (CONT.)

#### ■ Travel Costs 200.474 (Changed)

- Prior rule: allowable with certain restrictions
- Travel costs may be charged on actual, per diem, or mileage basis
- Travel charges must be consistent with entity's written travel reimbursement policies
- Grantee must retain documentation that participation of individual in conference is necessary for the project
- Travel costs must be reasonable and consistent with written travel policy / or follow GSA 48 CFR 31.205-46(a)

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### OMB CIRCULARS TIME AND EFFORT RULE

#### **New Name:** Time Distribution Records “Standards for Documentation of Personnel Expenses”

- If federal funds are used for salaries, then time distribution records are required.
- How staff demonstrate allocability
  - Paid in whole or in part with federal funds 200.430 (i)(1)
  - Used to meet a match/cost share requirement 200.430(i)(4)

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### COST OBJECTIVES 200.28

- What is a cost objective? (slightly changed)
  - Program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc.

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### TIME AND EFFORT (CURRENT A-87 RULE)

#### Semi-Annual Certifications

- If an employee works on a single cost objective:
  - After the fact
  - Account for the total activity
  - Signed by employee **or** supervisor
  - Every six months (at least twice a year)

#### Personnel Activity Report (PAR)

- If an employee works on multiple cost objectives:
  - After the fact
  - Account for total activity
  - Signed by employee
  - Prepared at least monthly and coincide with one or more pay periods

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### TIME AND EFFORT (CURRENT A-21 RULE)

- More flexible rules and more discretion for professorial and professional staff

#### Options:

- Plan Confirmation: Budgeted allocations for professional/professorial staff; updated to reflect any significant changes in actual work
- **After-the-Fact Activity Reports:**
  - Professional and Professorial staff keep records every 6 months
  - All other employees keep monthly records.
- Multiple Confirmation Records: variety of records kept in combination at least monthly

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### TIME AND EFFORT (CURRENT A-122 RULE)

- Similar to A-87 PAR
- Need PARs to support salaries and wages of all staff paid (in whole or in part) with federal funds
  - Monthly
  - After-the-fact records
  - Signed by employee or supervisor with first-hand knowledge of the work performed.
- No semi-annual certification option.

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“STANDARDS FOR DOCUMENTATION OF PERSONNEL EXPENSES” 200.430

- **NEW:** Charges for salaries must be based on records that *accurately reflect* the work performed
  1. Must be supported by a system of internal controls which provides *reasonable assurance* charges are accurate, allowable and properly allocated
  2. Be incorporated into official records
  3. *Reasonably reflect* total activity for which employee is compensated
    - Not to exceed 100%

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“STANDARDS FOR DOCUMENTATION OF PERSONNEL EXPENSES” 200.430 (CONT)

4. Encompass all activities (federal and non-federal)
5. Comply with established accounting polices and practices
6. Support distribution among specific activities or cost objectives

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“STANDARDS FOR DOCUMENTATION OF PERSONNEL EXPENSES” 200.430 (CONT)

- Budget estimates alone do not qualify as support for charges to Federal awards 200.430(i)(1)(viii)
- **NEW:** Percentages may be used for distribution of total activities 200.430(i)(1)(ix)

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“STANDARDS FOR DOCUMENTATION OF PERSONNEL EXPENSES” 200.430 (CONT)

- Grantees encouraged to adopt “substitute systems” if approved by cognizant agency for indirect cost 200.430(i)(5)
- Acceptable to allocate sampled employees’ supervisors, clerical and support staffs, based on results of sampled employees

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“STANDARDS FOR DOCUMENTATION OF PERSONNEL EXPENSES” 200.430 (CONT)

- **NEW:** If records meet the standards: the non-federal entity **will NOT be required to provide additional support or documentation for the work performed** (200.430(i)(2))
- **BUT,** if “records” of grantee do not meet new standards, ED may require PARs (200.430(i)(8))
  - PARs are not defined!!

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Procurement



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**PROCUREMENT STANDARDS**

State, Local and Tribal Governments:

- States may use their own procurement policies and procedures to procure equipment.
- Other grantees and subgrantees must follow policies and procedures that meet the standards set out in EDGAR 80.36.

Omni Circular - 200.317

- Still provides flexibility for States; all other nonfederal entities follow policies and procedures under Section 200.318-200.326.

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**PROCUREMENT STANDARDS 200.308**

- **NEW:** Omni Circular :All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

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**OPEN COMPETITION**

- All procurement transactions must be conducted with full and open competition.
  - Must have protest procedures to handle disputes
- To eliminate unfair advantage, contractors that develop or draft specifications, requirements, statement of work, and invitations for bids or RFPs must be excluded from competing for such procurements.
  - **Now applicable to all nonfederal entities (200.319(a))**

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### OPEN COMPETITION

- Situations that restrict competition:
  - Unreasonable requirements on vendors to qualify to do business
    - Pre-qualified lists should not limit competition
  - Requiring unnecessary experience or excessive bonding
  - Noncompetitive pricing practices
  - Noncompetitive awards to consultants on retainer
  - Organizational conflicts of interest
  - Specifying a brand name
  - Any arbitrary action in the procurement process
  - In-state or local preferences

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### CONFLICT OF INTEREST

- Must maintain written standard of conduct, including conflict of interest policy.
- A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:
  - Employee, officer or agent
  - Any member of that person's immediate family
  - That person's partner
  - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award

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### CONFLICT OF INTEREST

- If the non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government the entity must also maintain written standards of conduct covering organization conflicts of interest! **200.318(b)(2)**
- **NEW:** All non federal entities must establish conflict of interest policies, **and disclose in writing any potential conflict to federal awarding agency in accordance with applicable Federal awarding agency policy. 200.112**

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**VENDOR SELECTION PROCESS 200.320**

- Method of procurement:
  - NEW: Micro-purchase**
  - Small purchase procedures
  - Competitive sealed bids
  - Competitive proposals
  - Noncompetitive proposals

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**VENDOR SELECTION PROCESS: MICRO-PURCHASE 300.320(a)**

- NEW:** Acquisition of supplies and services under \$3,000 or less.
- May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- To the extent practicable must distribute micro-purchases equitably among qualified suppliers.

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**VENDOR SELECTION PROCESS: SMALL PURCHASE PROCEDURES**

- Good or service that costs \$100,000 or less (**NEW: \$150,000 under 200.88**)
  - Organization may set lower threshold
- Must obtain price or rate quotes from an adequate number of qualified sources
- “Relatively simply and informal”

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### VENDOR SELECTION PROCESS: NONCOMPETITIVE PROPOSALS

- Appropriate only when:
  - The good or services is available only from a single source (sole source)
  - There is a public emergency
  - The awarding agency authorizes
    - **NEW:** awarding agency or pass-through must expressly authorize noncompetitive proposals in response to written requires from nonfederal entity - 200.320(f)(3)
  - After soliciting a number of sources, competition is deemed inadequate

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### VENDOR SELECTION PROCESS: NONCOMPETITIVE PROPOSAL

- As a practical matter, noncompetitive contract raises "red flags"
  - Ensure persuasive and adequate documentation to facilitate audit



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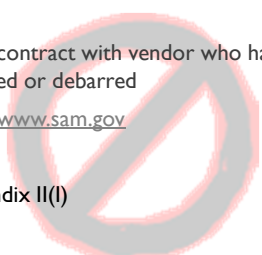
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### VENDOR SELECTION PROCESS

- Cannot contract with vendor who has been suspended or debarred
  - <http://www.sam.gov>
- Appendix II(I)



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**CONTRACT ADMINISTRATION 200.318**

- **(Changed)** Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract



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**Property Management**



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**INVENTORY MANAGEMENT**

- Must have adequate controls in place to account for:
  - Location of equipment
  - Custody of equipment
  - Security of equipment



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### WHAT IS EQUIPMENT? 200.33

- Equipment: tangible, nonexpendible, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- Grantee may also use its own definition of equipment as long as the definition would at least include all equipment defined above.

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### SUPPLIES 200.94

- Anything that is not equipment is considered supplies.
  - "Significant Technological Devices"
- **NEW:** Computing devices
  - Machines used to acquire, store, analyze, process, public data and other information electronically
  - Includes accessories for printing, transmitting and receiving or storing electronic information
  - Computing devices are supplies is less than \$5,000

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### INTERNAL CONTROLS 200.302(b)(4)

- Regardless of cost, grantee must maintain effective control and "**safeguard all assets** and assure that they are used solely for authorized purposes."

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### INVENTORY MANAGEMENT

- Must have inventory management system
  - Property records
    - Description, serial number or other ID, title info, acquisition date, cost, percent of federal participation, location, use and condition, and ultimate disposition
  - Physical inventory
    - At least every two years
  - Control system to prevent loss, damage, theft
    - All incident must be investigated

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### USE OF GRANT-ACQUIRED EQUIPMENT 200.313

- **Clarified:** shared use is allowed if such use will not “interfere”:
  - 1<sup>st</sup> preference – projects supported by federal awarding agency
  - 2<sup>nd</sup> preference – project funded by other federal agencies
  - 3<sup>rd</sup> preference – use for non federally funded programs
- **NEW:** Cannot “**encumber**” the property without approval of Federal agency or Pass-through agency

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### INVENTORY MANAGEMENT 200.313

- **NEW:** When grantee acquiring replacement equipment, the equipment to be replaced may be used as a “trade-in” without recourse to federal agency

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### DISPOSITION-EQUIPMENT 200.313

- When property no longer needed, must follow disposition rules:
  - Transfer to another federal program
  - Over \$5,000 – pay federal share
    - Institutions of Higher Education, Hospitals and Other Nonprofits must request disposition instructions from the Secretary of the before disposal of equipment.
  - Under \$5,000 – no accountability
- **NEW:** Nonfederal entity must request disposition instructions from the federal awarding agency if required by the terms of the grant.

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### DISPOSITION – SUPPLIES 200.314

- If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, must compensate the federal government for its share.

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### Records and Reviews



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### METHODS FOR COLLECTION, TRANSMISSION AND STORAGE OF INFORMATION 200.335

- o **NEW:** When original records are electronic and cannot be altered, there is no need to create and retain paper copies.
- o When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
  - o Are subject to periodic quality control reviews,
  - o Provide reasonable safeguards against alteration; and
  - o Remain readable.

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### REQUIREMENTS OF PASS-THROUGH ENTITIES



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### FEDERAL AWARDING AGENCY REVIEW OF RISK POSED BY APPLICANTS 200.205

- **NEW:** DOL and "Pass-Through" must have in place a framework for evaluating risks before applicant receives funding
  1. Financial Stability
  2. Quality of Management System
  3. History of Performance
  4. Audit Reports
  5. Applicant's Ability to Effectively Implement Program

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### SPECIFIC CONDITIONS 200.207

DOL or "Pass Through" May Impose "additional Federal award conditions":

- Require reimbursement;
- Withhold funds until evidence of acceptable performance;
- More detailed reporting
- Additional monitoring;
- Require grantee to obtain technical or management assistance; or
- Establish additional prior approvals.

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### MONITORING AND REPORTING PROGRAM PERFORMANCE 200.328

**NEW:** Monitoring by the "Pass Through"

- Monitor to assure compliance with applicable federal requirements and performance expectations are achieved
- Must cover each program, function or activity(see *also 200.331*)
- Must submit "performance reports" at least annually

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### REQUIREMENTS FOR PASS-THROUGH ENTITIES 200.331

▪ **NEW:** Depending on assessment of risk, the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

1. Training + technical assistance on program-related matters
2. On-site reviews
3. Arranging for "agreed-upon-procedures" engagements (described in 200.425)

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**AUDIT REQUIREMENT**



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**AUDIT REQUIREMENTS**

- Current threshold \$500,000.
- **NEW:** Threshold increased to \$750,000
- The federal agency, OIG, or GAO may arrange for audits in addition to single audit

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**FEDERAL AGENCY RESPONSIBILITIES**  
200.513

- **NEW:** The federal awarding agency must use cooperative audit resolution to improve federal program outcomes
- Cooperative Audit Resolution: means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust and developing an understanding between the Federal agency and non-Federal entity 200.25.

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**AUDIT FINDINGS 200.516**

- The auditor must report (for major programs):
  - Significant deficiencies and material weaknesses in internal controls
  - Significant instances of abuse
  - Material noncompliance
  - Known questioned costs > \$25,000
- Auditor will not normally find questioned costs for a program that is not audited as a "major program"
  - **NEW: But if auditor becomes aware of questioned costs > \$25,000 for non-major program, must report**

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**QUESTIONS?**



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