



# Federal Regulations in EDGAR and the UGG

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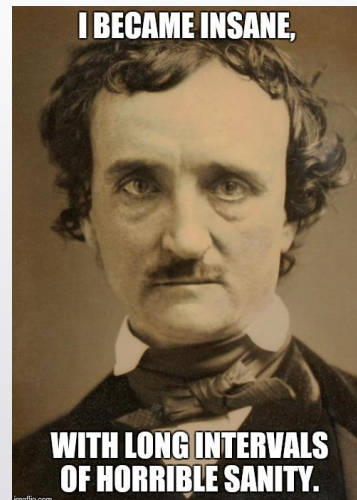
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## What Is EDGAR?

**Education Department General  
Administrative Regulations**

<https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>



## EDGAR and the UGG

- The Education Department General Administrative Regulations (EDGAR) includes various grants management rules applicable to all federal awards issued by the U.S. Department of Education (ED).
- The Uniform Grant Guidance (UGG) are federal grants management rules that apply to all awards issued by all federal awarding agencies.
  - Created and amended by the Office of Management and Budget (OMB)
- EDGAR incorporated the UGG back in 2014
  - Parts 74 and 80 of EDGAR were replaced with 2 CFR Part 200

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## Key Sections of EDGAR

- Excerpts from the General Education Provisions Act (GEPA)
- Title 34
  - Part 75 – Direct Grant Programs
  - Part 76 – State-Administered Programs
  - Part 77 – Definitions
  - Part 81 – Enforcement Regulations
- Title 2
  - Part 200 – Cost/Administrative/Audit Rules
  - Part 3485 – Non-procurement Debarment and Suspension
  - Incorporates 2 CFR Part 180, OMB's Guidelines on Debarment and Suspension

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# Uniform Grant Guidance

2 CFR Part 200



## OMB Revises the UGG – August 2020

- Proposed changes to 2 CFR Part 200  
Published January 22, 2020
- Comments closed March 23, 2020
- Final Revisions published August 13, 2020



## OMB Revisions to the UGG – Effective Dates

- Effective as of **November 12, 2020**
  - Except for 200.216 and 200.340, effective August 13, 2020
- **200.216**: Prohibition on certain telecommunications and video surveillance services or equipment
  - Prohibits grantees from entering into contracts with certain covered entities
- 200.340: Termination
  - Allows awards to be terminated “if an award no longer effectuates the program goals or agency priorities”
    - Previously: “For cause”

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## Companies Covered by 200.216

- Huawei Technologies Company
- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company
- Any subsidiary or affiliate of such entities

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## OMB Revisions - Summary

- Procurement Changes to Better Target Areas of Greater Risk and Conform to Statutory Requirements
- Strengthen Merit Review and Improve Governmentwide Approach to Performance and Risk
- Standardize Terminology, Data Elements and Alignment with Other Authoritative Source Requirements
- Emphasize Machine Readable Information Format
- Eliminate References to Non-Authoritative Guidance
- Change Closeout to Reduce Burden and Support the GONE Act
- Expanded Use of De Minimis Rate
- Clarify Areas of Misinterpretation



## 2 CFR Part 200

- Subpart A – Definitions – **Section Numbers Removed!**
- Subpart B – General Provisions
- Subpart C – Pre- Federal Award Requirements
- Subpart D – Post Federal Award Requirements
- Subpart E – Cost Principles
- Subpart F – Audit Requirements

# Financial Management

## 2 CFR 200.302(b)

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## Financial Management 200.302

(a) States – follow their own rules!

(b) Everyone else – seven standards.

1. Identification in accounts
2. Financial reporting
3. Accounting records (**financial** obligations)
4. Internal controls, internal controls, internal controls
5. Budget control
6. Written procedures for cash management
7. Written procedures for determining allowability

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## Identification in Accounts – 200.302(b)(1)

- Federal award identification must include, as applicable:
  - Assistance Listings title and number
  - Federal award identification number and year
  - Name of the Federal agency
  - Name of the pass-through entity, if any

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## Internal Controls 200.303

### MUST:

- Comply with requirements (**U.S. Constitution**)
- Evaluate and monitor compliance
- Take prompt action to correct noncompliance
- Safeguard personally identifiable information (PII)
- Compliance Supplement, Internal Controls: “Control activities are the policies and procedures that help ensure the management's directives are carried out.”
  - Clearly written and clearly communicated

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## Federal Payment 200.305(b)

- Written procedures must describe whether non-federal entity uses:
  - 1) Advance Payments
    - Limited to minimum amounts needed to meet immediate cash needs
    - Subject to cash management requirements
  - 2) Reimbursement
    - Pass through must make payment within 30 calendar days after receipt of the billing
    - Initial payments made with state/local funds

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## Cash Management 200.305 (a) and (b)

- For non-federal entities, payments must minimize time elapsing between draw down and disbursement (not obligation)
- Cash advances must be maintained in insured accounts
  - 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
- Interest earned must be remitted annually to HHS Payment Management System (**updates to this process**)
  - Interest amounts up to \$500 may be retained by non-federal entity for administrative purposes.

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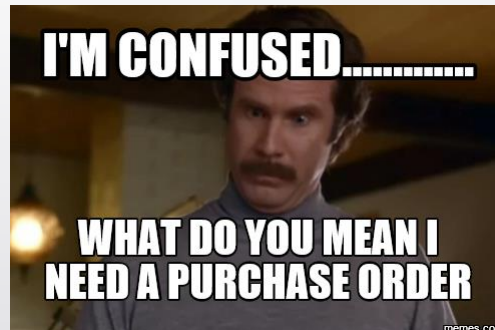


## Financial Management

- Cost share/ matching – 2 CFR 200.306
  - Unrecovered indirect costs require prior approval
  - For donated/in kind contributions, must document assigned value
- Program income – 2 CFR 200.307
  - Deduction vs Addition method
  - Defined 200.1

## Procurement

2 CFR 200.317 – 200.327



## Procurement Standards 200.318

- All non-federal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.
  - Open and Full Competition (Maximum Extent Possible)
  - Specific Thresholds for Purchasing
  - Prohibited In-State and Local Preferences
  - Contract Administration System
  - Conflict of Interest Rules
  - Mandatory Disclosures

## Contract Administration 200.318(b)

- Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract

## What does contract oversight look like with COVID disruption?

- Considerations
  - Continue paying contractors "to the extent practicable"
  - Check the terms and conditions
  - Changed scope? Changed pay structures?
  - Need amendment?
  - Approvals? E.g., Third-party contractors providing equitable services: Terminate contract? Modify and continue? Consultation requirements?

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## Conflict of Interest 200.318(c)(1)

- 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
- Organizational Conflict (applies to non-gov entities)

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## Conflict of Interest 200.318(c)(1) (cont.)

- Must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors / subcontractors.
- However, may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.
- Standards of conduct must include disciplinary actions applies for violations.



## Conflict of Interest 200.112 Mandatory Disclosures 200.113

- 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.
- Must disclose to federal or pass-through agency "all violation of federal criminal law involving fraud, bribery or gratuity violations potentially affecting the federal award."

## Competition 200.319

(a) 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.

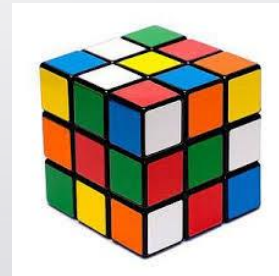
...

**(f) Noncompetitive procurement can only be awarded in accordance with 200.320(c).**

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## Methods of Procurement 200.320

- Grantee **must have and use documented procurement procedures** for the following methods:
  - (a) Informal procurement methods
    - Micro-purchase
    - Small purchase procedures
  - (b) Formal procurement methods
    - Competitive sealed bids
    - Competitive proposals
  - (c) Noncompetitive proposals



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## Informal Procurement 200.320(a)

- Use when value does not exceed \$250,000 (simplified acquisition threshold), or a lower threshold established by a non-federal entity
- Procurement of property or services required under federal award
- Purpose: to expedite completion and minimize administrative burden and cost

## Informal Procurement, 200.320(a)(1) Micro-purchases

- Distribution. "To the maximum extent practicable, the non-federal entity should distribute ... among qualified suppliers."
- Awards. May be awarded without price or rate quotes if non-federal entity "considers the price to be reasonable **based on research, experience, purchase history or other information and documents its files accordingly.**"

## Informal Procurement, 200.320(a)(1) Micro-purchases (cont.)

- Thresholds. Determined and documented by grantee, based on internal controls, risk, and procedures. Authorized by state, local laws. May be higher than threshold in FAR (\$10,000).
  - Nonfederal entity may self-certify threshold up to \$50,000, if:
    - Low-risk auditee for most recent audit (200.520)
    - Annual internal institutional risk assessment to identify, mitigate and manage financial risks; or
    - For public institutions, a higher threshold consistent with state law
  - Over \$50,000, must have approval of cognizant agency indirect costs

## Informal Procurement, 200.320(a)(2) Small Purchases

- Used when for purchases greater than micro-purchase threshold, but less than simplified acquisition threshold (\$250,000).
- Price or rate quotations from “adequate number of qualified sources” **as determined appropriate by non-federal entity**
- Thresholds. Established based on internal controls, risk and procedures, and documented. Cannot exceed the threshold in FAR (\$250,000), but may be lowered.

## Formal Procurement, 200.320(b)

- Used for purchases that exceed small purchase threshold (\$250,000, or lower, if set by the non-federal entity)
  - Require documented procedures
  - Require public advertising
- Two options:
  - (1) Sealed bids
  - (2) Proposals



## Louisiana Requirements Executive Order JBE 2020-21

- Up to \$10,000: same as micro-purchase rules
- \$10,001 to \$20,000: three or more price quotations
- \$20,001 to \$30,000: five or more price quotations
- Over \$30,000: Invitation to Bid or Request for Proposal
- Does not apply to Professional Services
- IT Specific Exemptions for Public Colleges Universities (up to \$150,000)



## Noncompetitive Proposals 200.320(c)

- Appropriate only when:
  - **Micro-purchases**
  - The item is only available from a single source;
  - **There is a public emergency for the requirement that will not permit delay resulting from publicizing a competitive solicitation;**
  - The Federal awarding agency or pass-through expressly authorizes noncompetitive procurement in response to a written request from non-Federal entity; or
  - After soliciting a number of sources, competition is determined inadequate.



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With COVID, can we procure items under “public emergency” exception in 200.320(c)(3)?

- Considerations:
  - Policies and procedures
  - Online shopping and quotes
  - **Timeframe required for items**



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## Domestic Preferences for Procurements 200.322

- “To the greatest extent practicable” must provide a preference for the purchase of goods and materials produced in the U.S.
- Must include this section in all subawards, contracts and purchase orders



## Suspension and Debarment, 200.214 2 CFR 180.300

- For contracts over \$25,000 (“covered transaction” 3485.220) you must verify that the person with whom you intend to do business is not excluded or disqualified.
- This MUST be done by either:
  - a. Checking SAM; or
  - b. Collecting a certification from that person; or
  - c. Adding a clause or condition to the covered transaction with that person.

# Inventory Management

## 2 CFR 200.313



## Definitions

- Equipment (200.1): Equipment: tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
  - Louisiana: Anything over \$1,000
- Supplies (200.1): All tangible personal property other than equipment
- Computing Devices (200.1): In Louisiana, If over \$1,000, it is equipment

## 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.”

## Use of Equipment – 200.313(c)

- Equipment must be used by the Non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award.
- When used it must be shared, provided such use will not interfere with work on the original projects/programs, and it follows this order of priority:
  - First by other ED programs
  - Then open to other federal programs
  - Non-federal programs



## Replacement?

- 200.313(c)(4) – May use sale price of old equipment towards purchase price of replacement equipment
  - Calculate new federal share!

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## Inventory Procedures – 200.313(d)

- Property records
  - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
- Physical inventory at least every two years
- Control system to prevent loss, damage, theft
  - All incident must be investigated
- Adequate maintenance procedures
- If authorized or required to sell property, proper sales procedures to ensure highest possible return.

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## Disposition – 200.313(c)(1) & (e)

- When no longer needed, may be used in other activities with the following priority:
  - Projects supported by Federal awarding agency
  - Project funded by other Federal agencies
- When property is no longer needed in any current or previously Federally-funded supported activity, must follow disposition rules:
  - Fair market value > \$5,000 = pay federal share back to awarding agency
  - Fair market value of \$5,000 = no money owed back to feds
- Supplies (200.314): Depends on value of residual inventory of unused supplies

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## Timely Spending



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## Period of Performance 200.1

The total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award ... does not commit the awarding agency to fund the award beyond the currently approved budget period.



## When Obligations Are Made 34 CFR 76.707

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre-Agreement Cost	On the first day of the grant or subgrant performance period.

## When Subgrantees may begin to Obligate funds 34 CFR 76.708

- Formula programs: Later of...
  - Date the state may begin to obligate; or
  - Submission of substantially approved application
    - According to the State, this means all documents of the grant are in the system
- Discretionary programs:
  - Once the subgrant is made

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## **Period of Performance, Budget Period, Renewal**

- New definitions! May have more than one budget period within period of performance; renewal starts a new period of performance. 2 CFR 200.1
- Revisions to 2 CFR 200.309: Modifications to Period of Performance.
  - If a Federal awarding agency or pass-through entity approves an extension, or if a recipient extends under §200.308(e)(2), the Period of Performance will be amended to end at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct Period of Performance will begin.

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## Period of Performance 2 CFR 200.309 (OMB Proposed deletion)

- ❖ (Previous language: allowed pre-award costs “authorized by the federal awarding agency or pass-through entity”)
- ❖ Comments: Do not delete!
- “It was not OMB’s intention to remove the pass-through entities’ authority to allow pre-award costs to subrecipients. OMB recognizes these concerns and added language to 2 CFR 200.458 for clarification in response to commenters.”

## Pre-Award Costs 2 CFR 200.458

- Those costs incurred prior to the effective date of the Federal award directly in negotiation or anticipation of the award
- Costs must be necessary for efficient and timely performance of the scope of work
- Allowable to the extent they would have been allowable if incurred after the effective date and ONLY with written approval from the Federal awarding agency

## Pre-Award Costs (cont.)

But... pre-award costs still require “written approval of the Federal awarding agency.”

Instead, OMB added:

- “If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency or pass-through entity.”



## Period of Performance for Perkins and AEFLA

- Local Perkins Award – 12 month period of performance
  - No Carryover
- Local AEFLA Award – Multi-year awards
  - Carryover year to year
  - 27 month period for each award year
    - 15 month initial year
    - 12 month carryover period under Tydings

## Closeout 2 CFR 200.344 (formerly 200.343)

- Subrecipients must prepare closeout reports and final accounting within 90 days after period; pass-through entities have **120 days**
- Unless federal or pass-through gives extension, all financial obligations must be liquidated no later than **120 days** after period ends
  - Effectively limit subrecipient liquidation to 90 days??
- 2 CFR 200.343



## State Rules on Closeout for Perkins

- Final reimbursement is due 15 days after the end of the award period.
- Additional time to submit all closeout documents
- Aim to have awards closed out no later than 30 days after the end of the award date

# The UGG'ly Truth About Allowability



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## Basic Factors of Allowability 200.403

### To be allowable, a cost *must*:

- Be **necessary, reasonable** and **allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Be incurred during approved budget period (NEW)**

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## Necessary 200.404

Cost is “generally recognized as ordinary and necessary for the operation of the non-federal entity or the proper and efficient performance of the federal award.”

- ❖ Is the cost included in your plan / grant application?
- ❖ Is it aligned with the goals of the program / grant?
- ❖ Does your agency have the capacity to use what you are purchasing?
- ❖ Is the staff knowledgeable regarding the program?

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## Reasonable 200.404

### Consideration must be given to:

- Whether cost is a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award;
  - Arms length bargaining (hint: procurement processes);
  - Federal, state and local laws; and
  - Terms of the grant award.
- Market Prices for comparable goods or services in the geographical area
- Whether the individuals acted with prudence under the circumstances
- No significant deviation from established prices.

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## Reasonable & Necessary (cont.)

### Practical Questions (best practice)

- Do I really need this?
- Is the expense targeted to valid programmatic / administrative need?
- Is this the minimum amount I need to spend to meet my need?
- Do I have the capacity to use what I am purchasing?
- Did I pay a fair rate?
- If I were asked to defend this purchase, would I be able to?

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## Allocable 200.405

- ❖ A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.
  - Incurred specifically for the award;
  - Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
  - Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.
- ❖ Can only charge in proportion to the value received by the program
  - Example: Agency purchases a computer to use 50% on the Federal grant program and 50% on a state program – can only charge half the cost to the grant.

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## Allocable (cont.)

- ❖ Do you have enough time to implement the cost?  
(UGG Section 200.405)
- ❖ Is the program that bought the product using it?
- ❖ Is the program sharing the use of the item(s)?
  - Was this shared use known at the time of purchase?
  - If so, how are costs being shared?
- ❖ How is the use being documented?



## CARES Act - Allocability

- How do grantees demonstrate allocability for CARES Act funding?
  - Is the cost related to the pandemic
  - Does this mean only supplemental / incremental costs related to the pandemic are allowable?
  - Backfill of maintenance and operations costs?

## Applicable Credits 200.406

- ❖ Those receipts or reduction-of-expenditure type transaction that offset or reduce expense items – must be credited to the Federal award as either cost reduction or cash refund, as appropriate.
- ❖ Examples: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments

## Direct vs. Indirect 200.413(c)

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



## OMB Revisions to Indirect Costs

- Expanded use of de minimis rate (includes grantees that have previously negotiated a rate)
  - Unavailable for restricted rate programs and certain state/local gov'ts
  - 200.414(f)
- Rate agreements must be available on OMB-designated website
  - 200.414(h)
- Adds program evaluation costs as a direct cost example
  - 200.413(b)

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## OMB Revisions to Indirect Costs – Pass-throughs

- If subrecipient does not have approved rate, pass through must accept:
  - Negotiated indirect rate between pass-through and subrecipient;
  - Negotiated rate between different pass-through and subrecipient; or
  - De minimis rate
  - 200.331 (a) (4)
- \*SEAs must negotiate rates with LEAs: 34 CFR 76.561 (b)
  - May offer flat 8% restricted rate to IHEs and nonprofit subrecipients, 34 CFR 76.564

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## Indirect Cost (cont.)

- Direct and Indirect costs: 2 CFR 200.413; 200.414
- Restricted Rates: 34 CFR 76.560 – 76.569
- Cost Allocation Guide:
- <https://www.bruman.com/wp-content/uploads/2020/01/Cost-Allocation-Guide-2019.pdf>



## Selected Items of Cost

### 56 Selected Items of Cost

- ❖ Allowable
  - E.g., collection of improper payments (200.428); training and education costs (200.473)
- ❖ Allowable with special conditions
  - E.g., only as an indirect charge (leave payout, 200.431; advisory councils, 200.422); only with necessary documentation (compensation – personal services, 200.430)
- ❖ Allowable with prior approval
  - E.g., equipment and capital expenditures (200.438); entertainment (200.439); participant support costs (200.456)
- ❖ Unallowable
  - E.g., alcohol (200.423); bad debts (200.426)

## Selected Items of Cost Examples

### **Alcohol 200.423**

- Not allowable

### **Entertainment 200.438**

- Not allowable UNLESS Prior Written Approval of Federal Awarding Agency.
- Field Trips & Holiday Parties are common examples
- Field trips may be allowed where:
  - They have a clear programmatic purpose
  - And are authorized by the federal awarding agency

## Advertising/Public Relations 200.421

### **• Allowable for programmatic purposes including:**

- Recruitment
- Procurement of goods
- Disposal of materials
- Program outreach
- Public relations (in limited circumstances)

## Conferences 200.432

- **Generally Allowable**

- To be a conference, must disseminate technical information beyond the non-federal entity
- Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
- Costs related to identifying, but not providing, locally available dependent-care resources
- Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in a manner that minimizes costs to federal award

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## Food

- **While Part 200 does not prohibit food, ED generally does not allow for the purchase of food:**

“Generally, there is a very high burden of proof to show that paying for food and beverages with federal funds is necessary to meet the goals and objectives of a federal grant. When a grantee is hosting a meeting, the grantee should structure the agenda for the meeting so there is time for participants to purchase their own food, beverages, and snacks. In addition, when planning a meeting, grantees may want to consider a location in which participants have easy access to food and beverages. These determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible. Grantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify costs as reasonable and necessary.”

Department of Education Guidance on Food, 2014

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## Food - Cont.

### **Proposed change to UGG:**

- Federal agencies cannot reference non-binding guidance as part of the terms and conditions of an award. 2 CFR 200.210

### **Final change to UGG:**

- Agencies may impose legally binding requirements on recipients only through the notice and public comment process through an approved agency process. **2 CFR 200.105(b)**
- Will this change restrictions on food?

## Memberships/Subscriptions – 200.454

- Costs of the **non-federal entity's membership** in business, technical, and professional organizations are allowable.
- Costs of the **non-federal entity's subscriptions** to business, professional, and technical periodicals are allowable.
- DOES NOT include memberships for individuals...only institutional memberships
- Also does not include lobbying organizations, country clubs, social clubs, etc..

## Travel 200.475 (new citation)

- ❖ Travel costs may be charged on actual, per diem, or mileage basis
- ❖ Travel charges must be consistent with entity's **written** travel reimbursement policies
- ❖ Allows costs for “above and beyond regular dependent care”
- ❖ Grantee must retain documentation that participation of individual is necessary for the project

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## Telecommunication costs and video surveillance costs 200.471

- Telecommunication and video surveillance services or equipment are allowable, *except*:
  - “Covered” telecommunications and surveillance under 200.216
  - Applies to new contracts, services, equipment, and any renewals or extensions

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## Personnel Documentation 200.430(i)(1)

### **Time and effort records must accurately reflect the work performed and:**

1. 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%
4. Encompass all activities (federal and non-federal);
5. Comply with established accounting policies and practices; and
6. Support distribution among specific activities or cost objectives.

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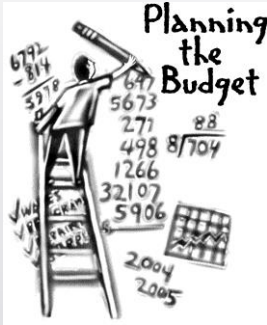
## Requires Time By Cost Objective

- What is a cost objective? 200.1
  - Activities
  - Mandated set-asides
  - Mandatory minimums
  - Anything that requires separate cost accounting
- Examples 200.430(vii):
  - More than one Federal award, a Federal award and a non-Federal award, an indirect and direct cost activity, etc.
  - 10% administrative set-aside, 1% mandatory minimum, etc.



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## Use of Budget Estimates - 200.430(i)(1)(viii)



- Budget estimates alone do not qualify as support for charges to Federal awards.
- May be used for interim accounting purposes if:
  - Produces reasonable approximations
  - Significant changes to the corresponding work activity are identified in a timely manner
  - Internal controls in place to review after-the-fact interim charges based on budget estimates

## What to do when effort does not match budget?

- Two Options:
  - (1) Change job duties to ensure more time is spent on funded cost objectives
  - (2) Change budget to ensure it is aligned with job duties





## Federal Stipends

- Federal funds can generally be used to pay for stipends for professional development or other extra-curricular activities.
- Time and Effort documentation must be kept.
- Maryland January 2013 ARRA Audit -
  - Documentation not kept for employees partially funded with federal funds.

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## Reconciliation - 200.430(i)(1)(viii)(C)

- All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

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## ED's Cost Allocation Guide Posted December 2019 (dated September 2019)

Time and Effort Policies and Procedures:

1. Completion of time and attendance reporting;
2. Approval cycle that is required;
3. Processing of personnel charges to federal awards; and
4. Internal review process that will be established to ensure effective internal control over the award.



## ED's Cost Allocation Guide (cont.)



"The information should be of sufficient detail to permit an understanding of how the the system will operate from the point the time [is] worked to the point the time is recorded in the accounting records and charged to federal awards."

## Supplement not Supplant

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## Auditor's SNS Test: The Presumptions of Supplanting

### 3 Presumptions of Supplanting

1. Required to be made available under other federal, state, or local laws
2. Provided with non-federal funds in prior year (For Title III-A, other federal funds included)
3. Provided services to eligible students using MEP or Perkins funds and the same services were provided to ineligible students using non-federal funds.

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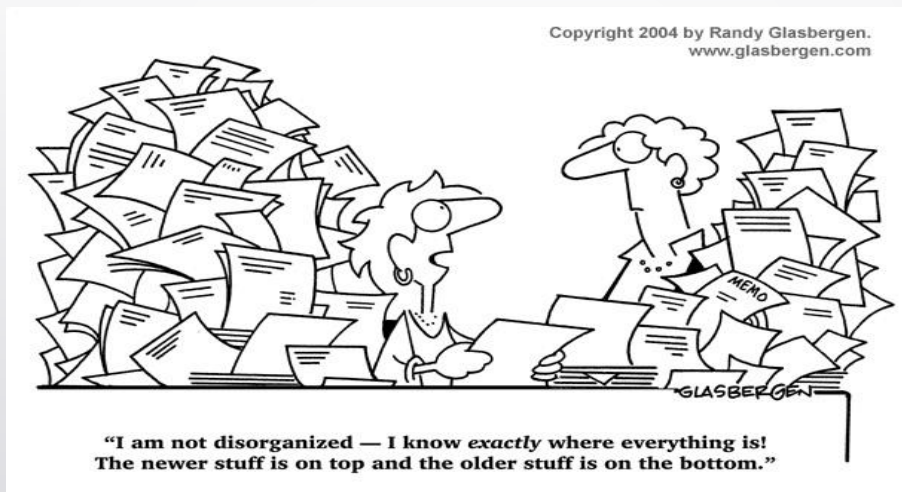
## But ... Presumption Rebutted!

- These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-federal funds had the federal funds not been available.

## Documentation & Internal Controls



## Know Where your Documents Are!



## Allowability Documentation

- ❖ Retention Requirements For Records – **2 CFR 200.334** (new citation!)
  - Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a **period of three years** from the date of submission of the final expenditure report.
  - Watch Statute of Limitations! (Example, USDE = 5 years under the General Education Provisions Act)

## Written Procedures: Must or Should?

- Cash Management Procedures - 200.302(b)(6) & 200.305
- **Allowability Procedures - 200.302(b)(7)**
- Managing Equipment – 200.313(d)
- Conflicts of Interest Policy - 200.318(c)
- **Procurement Procedures - 200.320**
  - Method for Conducting Tech Evals of Proposals
  - Establishment of thresholds
- Travel Policy - 200.475(b) (new citation)
- Time and Effort Procedures - “essential” ED, Cost Allocation Guide (agency specific)
- Subrecipient Monitoring Procedures – required by Compliance Supplement
- Grant Application Procedures
- Record Retention Procedures
- Audit Resolution Procedures
- Program-specific Procedures

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## Updates needed due to pandemic?

- Compensation / benefits procedures
- Time and effort procedures
- Travel reimbursements
- Allowability procedures
- Inventory management procedures



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## How to Maintain Documentation?

- ❖ When original records are electronic and cannot be altered, there is no need to create and retain paper copies. (UGG Section **200.336** (new citation))
- ❖ When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
  - Are subject to periodic quality control reviews;
  - Provide reasonable safeguards against alteration; and
  - Remain readable.

## Documentation HOT BUTTON Issues

- ❖ Are records kept by school, grant, fiscal year?
- ❖ Do you backup documentation?
  - Where and how often?
- ❖ What happens when staff retire or voluntarily leave?
- ❖ What happens when staff are fired?
- ❖ What happens when a school closes?
- ❖ Staff keep documentation at home?





## Test Your Knowledge!

An administrator spends 10% of his time working on Adult Ed admin and 90% of his time working on non-federal activities. Does the administrator have to keep time and effort records?

- a. Yes
- b. No
- c. It Depends



## Test Your Knowledge!

Are costs associated with advertising in media such as newspapers, radio and television, direct mail, or email allowable?

- a. Yes
- b. No
- c. It Depends



## Test Your Knowledge!

May a college use Perkins funds to purchase light snacks and water for a staff meeting?

- a. Yes
- b. No
- c. It Depends



## Test Your Knowledge!



A College wants to use Perkins funds to purchase light snacks and water for a staff meeting that is outside in 100 degree heat, is all day, and is in the middle of the woods and its with killer mosquitoes. Can it do this?

- a. Yes
- b. No
- c. It Depends

## Test Your Knowledge!



Can a school use Perkins funds to buy ingredients for pizza as part of a culinary arts class?

- a. Yes
- b. No
- c. It Depends

## Test Your Knowledge!

You are attending a conference in New Orleans. The conference is in December and you purchase your airplane ticket in September. When does the airplane ticket obligate?

- a. December
- b. September
- c. It Depends

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## Test Your Knowledge!

A college wants to purchase cameras and other related security devices to protect equipment purchased with Perkins funds. Is this allowable?

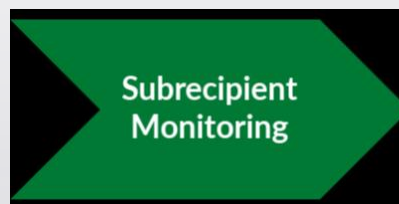
- a. Yes
- b. No
- c. It Depends



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# Subrecipient Monitoring

2 CFR 200.331



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## Pass-Through Responsibilities

- Contractor vs. Subrecipient (200.331) (new citation)
- Responsibility for Subawards (200.332) (new citation)
  - Subaward Information
  - Evaluate Subrecipient Risk
  - Specific Conditions (200.208)
  - Monitoring
  - Verify Subrecipient Has Single Audit; Management decisions
  - Enforcement (200.339) (new citation)

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## Risk Assessments – 200.332(c); 200.208

- The pass-through must evaluate subrecipient's risk of noncompliance, risk factors may include:
  - Subrecipient's prior experience with the same or similar subawards
  - Results of previous audits
  - Whether the subrecipient has new personnel or new or changes systems
  - The extent and results of monitoring

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## OMB change

Risk-based specific conditions: federal agencies or pass-through entities may **adjust requirements/ grant conditions** as needed.

- 2 CFR 200.208 (previously 200.207)

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## Less restrictive requirements?

Initial proposed language indicated agencies could impose “less restrictive requirements” based on risk. After comments, changed to “adjust requirements”

- Permit advance payments
- Less evidence requested on implementation
- Less frequent reporting
- Less monitoring
- Do not require prior approvals



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## Management decisions, 200.332(d)

- Issue management decision only for **applicable** audit finding pertaining to the subaward from the pass-through entity
- Pass-through is responsible only for **non-systemic audit findings**
  - Audit follow-up and management decisions for systemic issues responsibility of the “auditors and cognizant agency”
  - Pass-through still must “manage risk through ongoing subaward monitoring,” including follow-up on finding specifically related to the subaward

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## Enforcement Options – 200.339 General Education Provisions Act

- Suspend funding (up to 60 days without hearing)
- Withhold funding until come into compliance (hearing)
- Deny application for funding (hearing)
- Disallow/ recover funds (hearing)
- Terminate award; withhold other federal awards (hearing)
- “other remedies that may be legally available”
- 34 CFR 76.783; 76.401;

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## Single Audit Requirements

Subpart F of Part 200

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## Annual Single Audits

- Expending \$750,000 or more in federal funds in a year (200.501)
  - Must have single audit
  - Follow procurement rules in selecting auditor
  - Implement Corrective Action Plans
  - Major Programs (200.518)
- Report any material weaknesses in internal controls or questioned costs greater than \$25,000 (200.516)
- Cooperative Audit Resolution (200.1 & 200.513)
- Pass-Through Management Decisions (200.521)
  - Within six months of report being uploaded to FAC

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## 2020 Compliance Supplement

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## 2020 Compliance Supplement

- [https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement\\_FINAL\\_08.06.20.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement_FINAL_08.06.20.pdf)
- Released on August 14, 2020
- 1,559 Pages
- Addendum for CARES Act programs, released December 2020

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- The Compliance Supplement is a document that identifies existing, important compliance requirements that the federal government expects to be considered as part of an annual Single Audit required by the 1996 Amendments of the Single Audit Act of 1984.

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## Compliance Requirements

1. **Activities Allowed/Unallowed**
2. **Allowable Costs/Cost Principles**
3. **Cash Management**
4. **Eligibility**
5. **Equipment & Real Property Management**
6. **Matching, Level of Effort, Earmarking**
7. **Period of Performance**
8. **Procurement and Suspension & Debarment**
9. **Program Income**
10. **Reporting**
11. **Subrecipient Monitoring**
12. **Special Tests & Provisions**

Each federal program must select 6 requirements for auditors to focus on

## Single Audit Extensions

- Although OMB Memoranda M-20-11 and M-20-17 provide some extension for submission of single audit reporting packages for recipients and subrecipients impacted by COVID-19, both of these memoranda were rescinded with M-20-26 (June 18, 2020) and thus there is no extension for single audits for fiscal years ending after December 31, 2019.

## COVID in the Compliance Supplement

- Federal awarding agencies and PTEs are responsible for identifying COVID-19 awards and communicating the applicable compliance requirements to the recipient/subrecipient.
  - Normally this information would be in the award terms and conditions.
  - However, for COVID-19 related awards, the compliance requirements may have been communicated through an agency website and the compliance requirements may have been modified or compliance requirements not included in original terms and conditions may have been added.

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## Compliance Supplement Addendum: Time and Effort

- 2 CFR 200.430(i) applies to ESSER/GEER funds
- “Time distribution records” (“time and effort” reporting) is needed “if an individual employee is splitting their time between activities that may be funded under ESSER or GEER and activities that are not allowable under ESSER or GEER.”
  - BUT – notes that there are “very few situations” in which this would apply

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## Compliance Supplement Addendum: Emergency Leave Policy

- OMB M-20-17; ED April 8 Factsheet: May continue to pay employees with grant funds even if disrupted by coronavirus, according to an emergency leave policy
  - If no policy exists, should create one.
- However, under ESSER/GEER – compliance supplement states the CARES funds may be used to continue paying employees during leave and closures “even in the absence of a policy that specifically addresses these circumstances.”

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## Compliance Supplement Addendum: Construction

- Construction/capital purchases are allowed with ESSER/GEER
  - Pass-through entity must provide written, prior approval
  - Pass-through entities must “ensure compliance with applicable construction regulations (such as 34 CFR 75.609 (safety and health standards) and 75.616 (energy conservation))”

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## Compliance Supplement Addendum: Coronavirus Relief Fund

- Audit criteria should be based on Treasury Guidance
  - Includes presumption of allowability up to \$500 per student threshold
- Discourages capital/construction costs with CRF
  - Grantee must "(i) determine that it is not able to meet the need arising the form the health emergency in a cost-effective manner by leasing property or equipment or by improving property already owned and (ii) maintain documentation to support this determination"

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Questions

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