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United States Department of Agriculture

Food and Nutrition Service

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SUBJECT: Office of Management and Budget Super-Circular - 2 CFR Part 200

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

The Office of Management and Budget (OMB) published the Super-Circular at 78 FR 78590 on December 26, 2013 for USDA and other Federal grant-making agencies. Section 200.10(a) requires Federal agencies to implement the policies and procedures set out in the Super-Circular by promulgating regulations effective December 26, 2014. USDA published such regulations at 2 CFR Parts 400, 415, 416, *et al.* (79 FR 75981, December 19, 2014). They will replace existing rules at 7 CFR Parts 3015, 3016, and 3019, 3052, and cost principles addressed in 2 Parts 220 (A-21), 225 (A-87), and 230 (A-122).

OMB intends that the new rules be applied prospectively rather than retro-actively. Therefore, the new rules apply to new Federal awards made on or after December 26, 2014. OMB also published a set of Frequently Asked Questions (FAQ) on the Super-Circular on August 29, 2014. Below are some specifics regarding the Super-Circular's effective date for Programs administered by the Food and Nutrition Service (FNS).

Formula and Entitlement Programs

While entitlement Programs such as the National School Lunch Program and the Child and Adult Care Food Program operate continuously, funds are appropriated and grants awarded for them on an annual basis. Accordingly, the period of performance for these grants coincides with the Federal fiscal year. Fiscal year 2015 awards took effect October 1, 2014, while the old rules were still in effect; therefore, those rules will continue to apply until the close of business on September 30, 2015. The quarterly allotments issued to State agencies under FNS programs are not "funding increments" within the meaning of OMB's FAQ because they do not, in and of themselves, provide FNS with opportunities to change award terms and conditions.

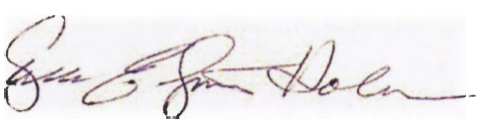
Discretionary Programs
New discretionary project grants may be awarded and existing ones amended at any point in a fiscal year. The award of a new grant after December 26, 2014 will trigger the Super-Circular's applicability. A funding increment accompanied by a grant amendment that materially changes a grant's terms and conditions will also instigate the use of the new rules, since such an amendment would be nearly equivalent to a new grant.

Audit Requirements
Subpart F (Audit Requirements) of the Super-Circular is the one exception to this implementation schedule. According to subsection 200.110(b), Subpart F "will apply to audits of fiscal years beginning on or after December 26, 2014." Most can be expected to cover either calendar year 2015 or auditee fiscal year beginning July 1, 2015. Audits of earlier fiscal years will continue to be made under 7 CFR Part 3052 (USDA's codification of OMB Circular A-133), *Audits of States, Local Governments and Non-Profit Organizations*). Therefore, you should expect the first audits under Subpart F to be made in 2016. The delayed implementation of Subpart F will avoid requiring auditors to begin audits of fiscal years starting in 2014 under this part, then switch rules and complete the audits under the Super-Circular.

Incremental Funding
Item 110-7 of the OMB FAQ (Effective Dates and Incremental Funding) states that "[t]he new rules apply as of the Federal award date (see 200.39) to new awards and, for agencies that consider incremental funding actions on previously made awards to be opportunities to change award terms and conditions, the first funding increment issued on or after December 26, 2014." We have not yet resolved questions on what this means or how it might affect FNS Programs. We will provide further guidance on this issue at a later date.

The set of Frequently Asked Questions on the Super-Circular is available at the following link: https://cfo.gov/wp-content/uploads/2014/08/2014-08-29-Frequently-Asked-Questions.pdf.

FNS Regional offices should share this information with the appropriate State agency personnel. State agencies should direct any questions to their respective FNS Regional offices.



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Frequently Asked Questions

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 CFR 200. Please note that in case of any discrepancy, the actual guidance at 2 CFR 200 governs. If there is a question pertaining to the application of the guidance to a particular Federal award, that question should be addressed to the Federal awarding agency or pass-through entity in the case of a subrecipient. This document is only intended to provide additional context and background for the guidance as Federal and non-Federal entities seek to understand the policy changes.

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200.23

.23-1 Vendor vs Contractor and Generally Accepted Accounting Principles (GAAP)

Does the elimination of the term "vendor" in favor of "contractor" require non-Federal entities (such as states) to change their longstanding practice of awarding "contracts" to nonprofits which they treat substantively as "subawards" for purposes of this guidance? Would continuing this practice be contrary to GAAP?

No, this policy does not require such a change, nor would it be in conflict with GAAP. States may call an agreement with a nonprofit however they like, so long as the agreement is audited according to the appropriate policies under the Uniform Guidance based on the determination made in accordance with section 200.330. See also 200.93 which states "A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract."

.23-2 (previously Q III-1) Vendor vs Contractor Clarification

What clarification can OMB and COFAR provide regarding changes to the term contractor and the elimination of the term vendor?

• In existing guidance, the COFAR has found that some confusion results from the fact that OMB Circular A-133 makes a distinction between subrecipients and "vendors" while other circulars describe either subawards or "subcontracts".
• For purposes of the Uniform Guidance, when a non-Federal entity provides funds from a Federal award to a non-Federal entity, the non-Federal entity receiving these funds may be either be a subrecipient or a contractor. The term contractor is used for purposes of consistency and clarity to replace areas in the previous guidance that referred to vendors, though substantively in the previous guidance, these two terms have always had the same meaning.
• Section 200.330 Subrecipient and Contractor Determinations, as well as section 200.22 Contract and 200.92 Subaward provide guidance on making subrecipient and contractor determinations. This language was largely taken from existing guidance in OMB Circular A-133 on subrecipient and vendor determinations.
• As described in the Uniform Guidance in the sections noted above, it is the substance of the award that determines how it should be treated, even though the pass-through entity or non-Federal entity receiving the award may call it by a different name.
• So, if a pass-through entity makes an award that it calls a "contract", but which meets the criteria under section 200.330 to be a subaward to a subrecipient, the non-Federal entity must comply with the provisions of the

Uniform Guidance relevant to subawards, regardless of the name used by the pass-through entity to refer to the award agreement.
• Likewise, any Federal awards that meet the criteria under section 200.330 for the non-Federal entity to be considered a contractor, whether the non-Federal entity providing the funds calls it a "vendor agreement" or a "subcontract", the non-Federal entity must comply with the provisions of the Uniform Guidance relevant to a contractor.

200.54

.54-1 Indian Tribes Removed from Definition of State – Implications for Tribal Law

In section 200.54, of the published guidance, Indian tribes were removed from the definition of state. Several sections of the guidance refer to state law, does this include tribal law?

Yes, in some cases. The COFAR will review the Uniform Guidance and, when Federal agencies issue implementing regulations, make technical edits as necessary to ensure that references to tribal law are explicitly included where intended.

.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?

• This should have no impact on 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.

200.101

.101-1 Applicability of Uniform Guidance to Federal Acquisition Regulation (FAR) based contracts

If the Federal agency awards a FAR based contract to the contractor, a non-federal entity, to what extent is the Uniform Guidance applicable to the contract?

The cost principles in Subpart E, and the audit requirements in Subpart F, of the Uniform Guidance are applicable to the FAR based contracts awarded by a Federal agency to a non-federal entity that is an educational institution; state, local, or Federally recognized Indian Tribal government; or nonprofit organization. While the Subpart E cost principles are applicable to FAR based contracts, their practical impact is on negotiated prime contracts and subcontracts thereof; as a practical matter, the cost principles are not applicable in certain instances, e.g., when the contract or subcontract is for the acquisition of a commercial item, a firm, fixed price contract or subcontract is awarded on the basis of adequate price competition without the submission of certified cost or pricing data, or the price is set by law or regulation. While the Subpart F audit requirements are applicable to FAR based contracts, those audit requirements are not sufficient to meet FAR contract audit requirements as a practical matter. (See FAQ 200.101-2 – Audit Requirements of FAR based contracts in addition to the Uniform Guidance Audit Requirement.)

The other subparts of the Uniform Guidance are applicable to the FAR based contracts awarded by a Federal agency, and any subcontracts awarded in accordance with any flow down requirements from the prime contract or higher tier subcontract – but only to the extent that the Uniform Guidance provision is not inconsistent with the terms and conditions of the contract and FAR requirements. The terms and conditions of the contract and FAR requirements must be given effect as they cannot be read out of the contract, modified or superseded by the Uniform Guidance provision. Any Uniform Guidance provision that addresses the same matter as covered by the terms of the contract and FAR requirements are, at the most, supplemental requirements secondary to, and in addition to, the FAR contract requirements.

.101-2 (also applicable to 200.503) Audit Requirements of FAR based contracts in addition to the Uniform Guidance Audit Requirement

Does an audit conducted in accordance with Subpart F of the Uniform Guidance which implements the Single Audit Act (SAA) requirements satisfy the contract audit requirements of FAR based contracts awarded by a Federal agency?

Generally, the practical answer is NO; the audit required by Subpart F of the Uniform Guidance does not satisfy the audit requirements required by the terms of the FAR based contract and FAR requirements, including, but not limited to, the Cost Accounting Standards (CAS), Truth in Negotiations Act (TINA), contractor business systems, incurred costs, and indirect costs/overhead rates (see section 200.503(c)). Despite the name which implies a single audit, the SAA (31 U.S.C. 7503(b) – Relation to other audit requirements) gives a Federal agency, Inspector General, or the Government Accountability Office (GAO) the authority to conduct additional audits beyond the single audit required by the SAA when the additional audits are necessary for the agency to carry out its responsibilities under Federal law or regulation. See section 200.503(b) of the Uniform Guidance.

.101-3 (also applicable to 200.419) Cost Accounting Standards (CAS) and the Uniform Guidance

What is the relationship of the Cost Accounting Standards (CAS) to the Uniform Guidance?

The Cost Accounting Standards Board (CASB) is an independent board in the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) established by statute (41 U.S.C. 1501, et seq.) The CASB has the exclusive authority to prescribe, amend, and rescind cost accounting standards (CAS), and interpretations of the standards, designed to achieve uniformity and consistency in the cost accounting standards governing the measurement, assignment, and allocation of costs to contracts with the Federal Government. The CAS are mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing and administration of contracts and subcontracts when they are subject to CAS.

As provided by its exclusive statutory authority, actions taken by the CASB to prescribe or amend rules, regulations, cost accounting standards (CAS), and modifications thereof, have the full force and effect of law. Section 200.419 of the Uniform Guidance provides only a brief summary of the CAS regulations; for authoritative CAS guidance and additional details, see 48 CFR 9900, et seq. and 48 CFR Part 30 (FAR Part 30).

200.110

.110-1 Effective Dates and Indirect Cost Rates

How does the effective date apply to indirect cost rates?

Existing negotiated indirect cost rates will remain in place until they are due to be re-negotiated. The "effective date" of changes to indirect cost rates must be based upon the date that a newly re-negotiated rate goes into effect for a specific non-Federal entity's fiscal year. Therefore, for indirect cost rates and cost allocation plans, Federal awarding and indirect cost rate negotiating agencies will use the Uniform Guidance both in generating

proposals for and negotiating a new rate (when the rate is due to be re- negotiated) for non-Federal entity fiscal years starting on or after December 26, 2014.

For example, the Uniform Guidance eliminates the concept of "use allowance" for depreciation. Nevertheless, for non-Federal entities with negotiated rates that are based on "use allowance", they would continue to use their existing rate, based on "use allowance", until the rate is due to be re-negotiated.

.110-2 Effective Dates and Indirect Cost Rate Proposals

When may non-Federal entities begin to submit proposals for indirect cost rates based on the Uniform Guidance?

Non-Federal entities may begin to submit actual cost proposals based on the Uniform Guidance when they are due for fiscal years that begin on or after December 26, 2014. For example, if a non-Federal entity is required to submit a rate proposal based on FY 2014 actual costs to set rates for FY 2016, the rate proposal can be developed using the provisions in the Uniform Guidance.

.110-3 Effective Dates and Disclosure Statements (DS-2s)

When may institutions of higher education (IHEs) begin to submit revised DS2s based on the Uniform Guidance?

IHEs may begin on or after December 26, 2014 to submit revisions to DS2 statements for fiscal years beginning on or after December 26, 2014. IHEs may submit these alongside revised indirect cost rate proposals, if those proposals are due in less than one year after December 26, 2014.

.110-4 Effective Dates and Applications

Should applications submitted prior to 12/26/2014 for Federal awards which will be made after 12/26/2014 reflect the Uniform Guidance?

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 DS2 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 Uniform Guidance, and applications for Federal awards that would be granted after that date should reflect the Uniform Guidance. The Uniform 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 Uniform Guidance will apply to that Federal awarding agency's incremental funding actions also. DS2 statements that need to be revised to reflect new policies should be submitted 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 Uniform Guidance, provided that an updated DS-2 (consistent with actual charging practices) has been submitted.

.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 one full fiscal year after the effective date of the Uniform Guidance. In general non-Federal entities must comply with the terms and conditions of their Federal award, which will specify whether the Uniform Guidance

applies. However, in light of the new procurement standards, for procurement policies and procedures, for the non-Federal entity's first full fiscal year that begins on or after December 26, 2014, the non-Federal entity must document whether it is in compliance with the old or new standard, and must meet the documented standard. For example, the first full fiscal year for a non-Federal entity with a June 30th year end would be the year ending June 30, 2016. The Single Audit Compliance Supplement will instruct auditors to review procurement policies and procedures based on the documented standard. For future fiscal years, all non-Federal entities will be required to comply fully with the uniform guidance.

.110-7 Effective Dates and Incremental Funding

How does the effective date apply to incremental funding? I have an award with three more years of expected funding. Normally I would keep the same account number for all five years, with the incremental funding for each year added as it comes in. Do I have to keep my funding subject to the old OMB Circulars in a separate account from the funding awarded after the Uniform Guidance goes into effect? Or can I just assume that the new rules apply as soon as I get my first post-Uniform Guidance increment of funds? Can I apply those rules to any residual balance of old funds as well as the new monies?

The new rules apply as of the Federal award date (see 200.39) to new awards and, for agencies that consider incremental funding actions on previously made awards to be opportunities to change award terms and conditions, the first funding increment issued on or after 12/26/14. For agency incremental funding actions that are subject to the Uniform Guidance, non-Federal entities are not obligated to segregate or otherwise track old funds and new funds but may do so at their discretion. For example, a non-Federal entity may track the old funds and continue to apply the Federal award flexibilities to the funding awarded under the old rules (e.g., local ability to issue fixed price subawards, non-Federal entity determination of the need to incur administrative and clerical salaries based on major project classification). For Federal awards made with modified award terms and conditions at the time of incremental funding actions, Federal awarding agencies may apply the Uniform Guidance to the entire Federal award that is uncommitted or unobligated as of the Federal award date of the first increment received on or after 12/26/14.

.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 of the states?

The COFAR is working with non-Federal stakeholders that includes representatives of state governments to provide outreach and training to facilitate consistent implementation across non-Federal entities. Please visit the COFAR website at CFO.gov/COFAR for more information.

.110-11 Effective Dates and Subawards

How does the Uniform Guidance apply to Federal awards made prior to December 26 when some subawards are made prior to December 26 and others are made after December 26?

The effective date of the Uniform Guidance for subawards is the same as the effective date of the Federal award from which the subaward is made. The requirements for a subaward, no matter when made, flow from the requirements of the original Federal award from the Federal awarding agency.

.110-12 (updated from previous Q II-1) Effective Dates

When does the Uniform Guidance become effective?

The effective date is covered in section 200.110, Effective/applicability date.

- Federal agencies must implement the requirements to be effective by December 26, 2014.
- Subpart F, Audit requirements, will apply to audits of non-Federal entity fiscal years beginning on or after December 26, 2014. The revised audit requirements are not applicable to fiscal years beginning prior to that date.
- Administrative requirements and cost principles will apply to new awards and to funding increments, in cases where the Federal agency considers funding increments to be an opportunity to modify the terms and conditions of the Federal award, to existing awards made on or after Dec 26, 2014.
- Existing Federal awards that do not receive incremental funding with new terms and conditions will continue to be governed by the terms and conditions of the Federal award.

.110-13 (Previously Q II-2) Effective Dates and Federal Awards Made Previously

Will this apply only to awards made after the effective date, or does it apply to awards made earlier?

- Once the Uniform Guidance goes into effect for non-Federal entities, it will apply to Federal awards or funding increments after that date , in cases where the Federal agency considers funding increments to be an opportunity to modify the terms and conditions of the Federal award. It will not retroactively change the terms and conditions for funds a non-Federal entity has already received.
- We would anticipate that for many of the changes, non-Federal entities with both old and new awards may make changes to their entity-wide policies (for example to payroll or procurement systems). Practically speaking, these changes would impact their existing/older awards. Non-Federal entities wishing to implement entity-wide system changes to comply with the Uniform Guidance after the effective date of December 26, 2014 will not be penalized for doing so.

.110-14 (Previously Q II-3) Effective Dates and Pre-Existing Guidance

Should we continue using 2 CFR 220, 225, and 230 until December 2014, even though these regulations have now been removed from the CFR?

- The terms and conditions of the Federal award always govern, and even once the Uniform Guidance goes into effect, Federal agencies will need to ensure that all non-Federal entities have full access to the terms and conditions of Federal awards made prior to the Uniform Guidance becoming effective.
- The original circulars are also available on the OMB website at http://www.whitehouse.gov/omb/grants_circulars.
- Federal agencies may not impose the Uniform Guidance prior to the effective date.

.110-15 (Updated from the previous Q II-4) Single Audit Compliance Supplement and Audit Resolution

What are the next steps for the single audit Compliance Supplement and single audit resolution?

- The COFAR has made a commitment that for the rest of this year, work will focus primarily on initiatives that support smooth implementation of this Uniform Guidance.
- The 2015 Compliance Supplement is expected to be released in April 2015 and will implement changes to complement the Uniform Guidance, such as streamlining the audit objectives and procedures for the 14 types of

compliance requirements. OMB outreach in developing the 2015 Supplement is including non-Federal stakeholders.

• The COFAR is also working to draft best practices around cooperative audit resolution, and exploring possibilities for publishing a list of links to Federal agency audit resolution policies.

• The Federal Audit Clearinghouse (FAC) is working to develop additional analytical tools to better support audit resolution and provide data for outcome based metrics to allow Federal agencies to track the effectiveness of audit finding follow-up over time.

• The COFAR will be working with the FAC and the auditing profession to explore ways to combine the single audit reporting package (i.e., Schedule of Expenditures of Federal Awards and Auditor's Summary) with the reporting to the FAC in the data collection form to reduce duplication and improve the accuracy of FAC data.

• Finally, the COFAR plans to consider how to better coordinate the process of issuing management decision letters governmentwide.

200.112

.112-1 Conflict of Interest

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." Does this policy refer to scientific conflicts of interest that might arise in the research community?

No, however Federal agencies may have special policies or regulations specific to scientific conflicts of interest, such as HHS's policy at 42 CFR Part 50. The conflict of interest policy in 2 CFR 200.112 refers to conflicts that might arise around how a non-Federal entity expends funds under a Federal award. These types of decisions include, for example, selection of a subrecipient or procurements as described in section 200.318.

200.201

.201-1 Fixed Amount Awards

Section 200.201(b)(1) states that fixed amount awards and subawards can be used when there is a "specific" project scope and "adequate cost, historical or unit price data is available" to assure that the recipient or subrecipient will "realize no increment above actual cost." What standards will an agency use (or should pass-through entities use) when deciding when a project scope is "specific" and what constitutes "adequate" cost, historical, or unit price data?

The wording in this section was not intended to create a new, higher standard for budgeting. Fixed amount (fixed price) awards are appropriate when the work that is to be performed can be priced with a reasonable degree of certainty. Samples of appropriate mechanisms to establish an appropriate price include the non-Federal entity's past experience with similar types of work for which outcomes and their costs can be reliably predicted, or the non-Federal entity can easily ability to obtain price estimates (e.g., bids, quotes, catalog pricing) for significant cost elements.

.201-2 Fixed Amount Awards and Cost-share or Match

Section 200.201(b)(2) states that a fixed amount award (or subaward) cannot be used in programs that require a mandatory cost-share or match. Do salary costs that exceed a Federal awarding agency's salary cap constitute "mandatory cost-sharing" for the purpose of determining whether a fixed amount award or subaward can be used?

No, salary costs above a Federal awarding agency's cap are not a mandatory cost-share or match but, instead, are the result of limitations on the amount of salary costs that may be charged to the Federal award, and are paid at the discretion of the non-Federal entity. Since these salary costs above a Federal awarding agency's cap are not a mandatory cost-share or match, a fixed amount award or subaward can be used.

.201-3 Fixed Amount Awards and End of Award Certifications

Section 200.201(b)(3) states: "The non-Federal entity must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the Federal award must be adjusted." What reporting and documentation requirements should the non-Federal entity provide to the awarding agency?

The Federal awarding agency or pass-through entity may speficy the form or format required to certify completion or that the level of effort was expended, in the case of Federal awarding agencies through an OMB-approved information collection. If no format is specified, the recipient should certify completion to the Federal awarding agency (or the subrecipient should certify to the pass-through entity) as a part of the closeout process. Consistent with section 200.308(c)(3), a reduction of more than 25% of the level of effort must be reported to the Federal awarding agency and would require an adjustment. In other cases where an adjustment is necessary, typical mechanisms would include basing the adjustment on the percentage of completed work, actual costs incurred to date, or on another documented basis.

200.203

.203(a) Notices of Funding Opportunities

This section of the guidance specifies that Federal awarding agency must display the following Information posted on the OMB-designated government-wide website for finding and applying for Federal financial assistance. How does this guidance relate to the use of the current federal system called Grants.gov and OMB's requirements that Agencies utilize that system to post funding opportunity announcements and allow applicants to apply through the system?

While the guidance does not specify a particular system for finding and applying for Federal financial assistance, the current system of Grants.gov remains the federal government's central portal for discretionary financial assistance find and apply functionalities. In accordance with OMB Memorandum – M-04-01 and M-04-05 – Federal agencies are required to use Grants.gov "Find" functionality and directed to use the "Apply" functionality for discretionary grants. OMB Memorandum M-10-16 documented the technical boost for Grants.gov in response to the Recovery Act and reinforced expectations for agency use of Grants.gov, stating, "Federal grant-making agencies are instructed to resume using the "Apply" functionality of Grants.gov for all the programs that previously used this functionality prior to the memorandum (M-09-14), by no later than April 30, 2010. Federal agencies shall also continue using the "Find" functionality of Grants.gov to post all discretionary grant opportunities."

200.205

.205-1 Review of Risk Posed by Applicant- Financial Stability

In section 200.205, "Federal awarding agency review of risk posed by applicants," what guidelines are auditors given to determine financial stability?

The guidance in this section applies to Federal awarding agency pre-award review of risk posed by applicants, not the risk assessment process used by auditors. Guidance given to auditors for reviewing risk can be found in Subpart F of the Uniform Guidance and generally accepted government auditing standards (GAGAS).

200.303

.303-1 Should vs Must and Internal Controls

According to auditing standards, "should" really means "must unless there is a well-documented reason why not". Is this the case in the Uniform Guidance? Does the "should" in section 200.303 referencing guidance provided by GAO and COSO really mean "must"?

See should vs must answer in .303-2 below for the meaning of "should" in the Uniform Guidance. COFAR will review the guidance and consider whether technical corrections are needed related to the use of "should".

.303-2 (previously Q III-5) Should vs. Must In General

The word "should" is used throughout section 200. Does it really mean "must"?

• No. The word "must" is used throughout part 200 to indicate requirements. The word "should" is used to indicate best practices or recommended approaches that the COFAR wanted non-Federal entities to be aware of, but not necessarily required to comply with.

.303-3 (Previously Q III-4) Should vs Must and the Green book

In section 200.303 Internal Controls, what is the expectation about a non-Federal entity's compliance with the guidance in the Green Book?

The requirement is that the non-Federal entity must establish and maintain effective internal controls over Federal awards that provide reasonable assurance that awards are being managed in compliance with Federal statutes, regulation and the terms and conditions of the Federal award. The Uniform Guidance also refers non-Federal entities to the following three documents for best practices:
- "Standards for Internal Control in the Federal Government" (Green Book) issued by the Comptroller General.
- "Internal Control Framework" issued by the Committee on Sponsoring Organizations (COSO).
- Appendix XI, Compliance Supplement – Part 6 Internal Control (which currently follows COSO but will consider both the Green Book and COSO in the 2015 update (200.514(c)(1)).

While non-Federal entities must have effective internal control, there is no expectation or requirement that the non-Federal entity document or evaluate internal controls prescriptively in accordance with these three documents or that the non-Federal entity or auditor reconcile technical differences between them. They are provided solely to alert the non-Federal entity to source documents for best practices. Non-Federal entities and their auditors will need to exercise judgment in determining the most appropriate and cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with Federal program requirements.

200.306

.306-1 Exceptions in Statute for restrictions on cost sharing or matching

Section 2 CFR 215.23(a)(5) stated as one of the criteria for matching is that it cannot be "paid by the Federal Government under another award, except when authorized by Federal statute to be used for cost sharing or matching." Section 200.306(a)(5) states this criteria a little differently: matching cannot be "paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements." Is this a change in policy?

No.

200.307

.307-1 Fees and Royalties and Bayh-Dole

According to the Bayh-Dole Act (35 USC 202(c)(7)), for nonprofit organizations (e.g., IHEs, Nonprofit research institutions, other research performers), a portion of the license fees and royalties on patents are required to be returned to the inventor and the balance is to be used for education and research. Therefore, should the income from license fees and royalties be excluded from the definition of program income?

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 of business?

• No. A Federal agency may allow no-cost extensions of the period of performance to the extent such no-cost extension does not violate applicable laws and regulations.

200.313

.313-1 Equipment and Conditional Title

Section 200.313(a) of the guidance specifies that title for equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity as a "conditional title". This is new terminology for those non-Federal entities that have followed Circular A-110. What is meant by "conditional title" and will this affect how non-federal entities have historically accounted for equipment ownership?

There is no change intended in the Uniform Guidance for how non-Federal entities should account for equipment ownership. The concept of "conditional title" always has been in effect, and simply means that equipment ownership vests in the non-Federal entity at the time of acquisition and that it is contingent on meeting the requirements for use, management, and disposition of the equipment as required in section 200.313.

.313-2 Changes to Equipment Inventory Systems

Section 200.313(d)(1) of the guidance specifies the attributes that must be maintained in the property records of the non-Federal entity. For non-Federal entities that have followed Circular A-110, there are two changes:
- "percentage of Federal participation in the project costs" (Uniform Guidance) versus "information from which one can calculate the percentage of Federal participation in the cost of the equipment" (A-110. .34(f)(1)(vi)), and
- "the location, use and condition of the property" (Uniform Guidance) versus "location and condition of the equipment and the date the information was reported" (A-110. .34(f)(1)(vii)). Are non-Federal entities expected to change the attributes of their property records and ultimately be required to implement costly changes to their existing equipment inventory systems?

No. The requirements for property records have not substantively changed in the Uniform Guidance. The requirements for property records are meant to ensure that the non-Federal entity maintains an equipment inventory system that demonstrates the non-Federal entity has an effective system of controls to account for and track equipment that has been acquired with Federal funds. Non--Federal entities are not expected to change their equipment inventory systems or the data elements contained in those systems, if they are in compliance with the current requirements in Circular A-110. In the examples in the question:
- The percentage of Federal participation in the cost of equipment in Circular A-110 was identical to the percentage of Federal participation in the cost of the original project or program. One could infer that from the amount of compensation a recipient was required under 2 CFR 215.34(g) to make to a Federal agency at the time of disposition—i.e., "compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment." The A-110 requirement in 2 CFR 215.34 for the recipient's records to have information from which one could calculate the percentage of Federal participation in the cost of the equipment then required two numbers, the percentage of Federal participation in the original project or program and information from which one could derive the current fair market value. The Uniform Guidance makes that more explicitly clear through the definition of "Federal interest" in 2 CFR 200.41; and
- "the location, use and condition of the property" is referring to an indicator in the property records that the

specific equipment item is active and linked with the appropriate Federal award, identical to the requirement in Circular A-110.
The COFAR will review these sections and consider whether any technical corrections are needed for clarity in the Uniform Guidance.

200.318

.318-1 (Previously Q III-7) Equipment and A-110 Screening Procedures

Does the insertion of "or duplicative" in the first sentence of 200.318(d) mean that universities will have to revert to equipment screening procedures that were eliminated under the Federal Demonstration Project over 20 years ago?

• The Uniform Guidance in section 200.318(d) states that the non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
• The above language does not require any specific equipment screening procedures.

200.320

.320-1 Methods of Procurement – Micro vs Small vs Over Threshold

How are procurements of micro-purchase and small purchases under the simplified acquisition threshold less burdensome than those above it?

In summary, all purchases under the simplified acquisition threshold (including micro-purchases) require fewer terms and conditions, have a lesser competition standard than purchases over the simplified acquisition threshold, can be solicited informally, and do not require a cost or price analysis.

Section 200.320 describes the five methods of procurements – (1) micro-purchase (less than to $3,000), (2) small purchase (less than $150,000), (3) sealed bids purchases (more than $150,000), (4) competitive proposal purchases(more than $150,000), and (5) Noncompetitive purchases (special circumstances which are applicable for all purchase levels).

All five procurement types must comply with the Procurement Standards in section 200.318, which can be summarized generally as follows: (1) the purchase complies with the non-Federal entity's documented procedures in place, (2) purchases are necessary, (3) open competition (to the extent required by each method), (4) conflict of interest policy and (5) proper documentation for the purchases.

Purchases of supplies or services under $3,000 are treated as "micro-purchases." The purchase orders may be awarded without soliciting any competitive quotations if the non-Federal entity considers the costs to be reasonable. The non-Federal entity must, to the extent practicable, distribute these purchases equitable among qualified suppliers. For example, a purchase of computer paper in the amount of $2,000 can be treated as "a micro-purchase." No rate competitive quotations are necessary for the purchase. A cost or price analysis is not required. However, in accordance with the non-Federal entity's written policies, which may include strategic sourcing or bulk purchase arrangements as described in section 200.318 and addressed in FAQ .320-4, the non-Federal entity must consider whether to make the purchase from any one of a number of office supply stores.. Such policies may dictate the purchase of computer paper to rotate among qualified suppliers if they offer the same rates.

Purchases under the simplified acquisition threshold are purchases for goods or services meeting the small purchase threshold (currently at $150,000). Therefore, all purchases between $3,000 and $150,000 can use the "small purchase procedures" stated in section 200.320 (b) which describes the procedures as "relatively simple and informal." It states that "price or rate quotations must be obtained from an adequate number of qualified sources." It leaves the discretion of the non-Federal entity written policy to determine the "adequate" number of

qualified sources (i.e., any number greater than one) and the methods of methods of obtaining the price or rate quotations (e.g., it can be in writing, orally, vendor price list on website, or generated via online search engine). Section 200.323 also excludes the small purchases from any requirements for cost or price analysis.

For example, a purchase order for chlorine supplies in the amount $10,000 can treated a small purchase order. This purchase order requires a rate quote from at least two sources, which can be obtained in writing from two suppliers or research done on a public websites. A cost or price analysis is not required. In addition, if the chlorine is of special quality that is offered by only one company or only one company can deliver in the time frame required for the project, the purchase order can be made under the sole source purchase provision in section 200.320 (f).

For purchases over the simplified acquisition threshold (currently at $150,000), the more prescriptive methods of either sealed bids (if the non-Federal entity has very specific parameters for the purchase) or competitive proposals apply. For a visual of this FAQ, see the Procurement Bearclaw attachment.

.320-2 Methods of Procurement- Sole Source for Research

Procurement by noncompetitive proposals: Frequently, researchers need to acquire items from a particular source for scientific reasons; would this constitute a valid reason for a procurement by noncompetitive proposals? Is this method of procurement available for procurements of any dollar amount?

Yes; this would be a valid reason, and yes this option is available at all dollar amounts, provided it complies with the general procurement standards under 200.318, including documentation requirements in 200.318 (i).

.320-4 Methods of Procurement and Strategic Sourcing and Shared Services

Do the requirements for competition in the methods of procurement apply to each individual item I purchase, or may I apply them to broader procurement decisions in order to leverage strategic sourcing agreements, shared services arrangements, or other practices that result in more efficient use of the funds?

Yes, the requirements for competition apply to broader procurement decisions. Section 200.318 General Procurement Standards paragraphs (d) and (e) explicitly encourage non-Federal entities to build into their procurement policies practices that consolidate procurements where appropriate to make most efficient use of Federal funds.

.320-5 Methods of Procurement and Charge Cards

Does the Uniform Guidance require non-Federal entities to limit charge card purchases to a particular threshold amount?

No. The Uniform Guidance provides requirements for the internal control framework that surround any purchase, but does not provide any guidance around whether the non-Federal entity uses cash, charge cards, checks, or any other payment medium for the transaction.

.320-6 Methods of Procurement and Indirect Costs

Does the Uniform Guidance procurement standards apply to procurements made for indirect costs (for example: would a non-Federal entity need to follow them when hiring a plumber to fix a broken pipe in the headquarters building?)

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.

200.331

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

When a pass-through entity uses Federal and non-Federal funds to make a subaward to a nonprofit as a subrecipient, is the requirement in section 200.331(a)(4) for pass-through entities to provide an indirect cost rate applicable for only for the portion of the funds from Federal award that are utilized or the total funds?

Federal Uniform Guidance including section 200.331(a)(4) applies to Federal funds as specified in the terms and conditions of the Federal award.

.331-2 Limits on layers of Subrecipients for Indirect Costs

Is there a limit on the number of layers of subrecipients at which the requirement to pay indirect costs is no longer applicable? For example, a state may pass-through Federal grant funds to a local government. The local government may then pass all or some of the funds through to a local nonprofit, which then also utilizes the services of other nonprofit providers as subrecipients.

No, there is no limit under the Uniform Guidance, but the Federal award may have a limit.

.331-3 Delayed Federal funds and Indirect Cost Rates

When the awarding of Federal funds is held up due to the delayed approval of the Federal budget or other reasons, so states must use state funds in order to provide continued services in the interim, are those dollars considered state or Federal with regard to meeting the OMB requirements? For example, if temporarily using state funds while waiting for Federal funds, is the state required to reimburse subrecipients for their indirect costs as directed in the Uniform Guidance?

Yes, any costs ultimately charged to a Federal award must comply with the terms and conditions of that Federal award, including the Uniform Guidance. Pre-award costs are governed by section 200.458, and the Cash Management Improvement Act and its implementing regulations at 31 CFR Part 205.

.331-4 Indirect Cost Rates and Blended Subawards

States often blend several Federal funding streams to pay for services performed by nonprofit organizations. Each Federal funding stream may have a different set of requirements, particularly as it relates to indirect costs — some with statutory caps on indirect costs and others without a cap and are covered by the new provision in the Uniform Guidance. How should a pass-through entity calculate the indirect cost rate it must reimburse the nonprofit?

Each Federal award is subject to its own terms and conditions, and the funding streams would be tracked accordingly. For payments of indirect cost to the subrecipients, the pass-through entity must follow any statutory caps required by the funding streams. If a non-Federal entity wishes to blend funds from multiple Federal awards 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 principals. (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 be vulnerable to any of the measures available in sections 200.338-200.342, Remedies for Non-Compliance, depending on the Federal awarding agencies oversight of their Federal award. The COFAR is working with a Coalition of non-Federal entities to evaluate the effectiveness of implementation and the overall impact of the guidance. For information about where to direct inquiries about the Uniform Guidance in general, please see part 200.108.

200.332

.332-1 Fixed Amount Subawards

My institution has a fixed amount subaward issued on an active Federal award and it is over the $150,000 Simplified Acquisition Threshold; it will continue to be active after 12/26/14. Instead of modifying the subaward, can I give my subrecipient a new fixed amount subaward to cover just this year's funding so I can stay below the threshold?

It is acceptable to have more than one fixed amount subaward with the same subrecipient if necessary to complete work contemplated under a Federal award. It is expected, however, that each fixed amount subaward will have its own distinct statement of work and be priced for the work and deliverables that will be due under that subaward, and that prior approval of the Federal awarding agency is required for each subaward issued under funding received on or after 12/26/14, as outlined in 200.332. Non-Federal entities having special circumstances, including an unanticipated need to increase a fixed price subaward above the threshold, should consult with their Federal awarding agency for guidance on how to complete the planned scope of work with the least amount of administrative burden.

200.400

.400-1 Fixed Amount Subawards and Profit

Section 200.400(g) states that a non-Federal entity may not "earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award." Does that mean that a non-Federal entity cannot retain any unexpended balance on its fixed amount awards and subawards?

No. Section 200.400 (a)(3) provides an exception to this policy for fixed amount awards. See also FAQ .401-1. Provided that the cost of a fixed amount award was determined according to the Uniform Guidance, any residual unexpended balance that remains at the end of a completed award is not "profit" and, therefore, can be retained.

.400-2 Dual Role of Students and Post-Doctoral Staff

The Uniform Guidance states; "For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees contributing to the completion of Federal awards for research must be recognized in the application of these principles." Staff in postdoctoral positions engaged in research, while not generally pursuing an additional degree, are expected to be actively engaged in their training and career development under their research appointments as Post-Docs. This dual role is critical in order to provide Post-Docs with sufficient experience and mentoring for them to successfully pursue independent careers in research and related fields. Does 200.400(f) require recognition of the dual role of postdoctoral staff appointed on research grants as, both trainees and employees, when appointed as a researcher on research grants?

Yes, the Uniform Guidance 200.400(f) requires the recognition of the dual role of all pre and post-doctoral staff, who are appointed to research positions with the intent that the research experience will further their training and support the development of skills critical to pursue careers as independent investigators or other related careers. Neither Pre-Docs or Post-Docs need to be specifically appointed in 'training' positions to require recognition of this dual role. The requirements and expectations of their appointment will support recognition of this dual role per 200.400(f).

.400-3 (Previously Q III-3) Profit and Nonprofits

How does the usage of the term "profit" in §200.400(g) apply, if at all, to Federal awards with or performed by nonprofit organizations?

• The guidance in section 200.400(g) states that the non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award (with a reference to §200.307 Program income).
• The guidance in 200.400(g) is intended only to make this long-standing requirement explicit for purposes of accountability and oversight. It has always been true that costs under Federal awards must be reasonable, allocable and allowable. By definition, this has always excluded any additional increment for profit beyond cost for non-Federal entities executing Federal awards or subawards.

200.401

.401-1 Fixed Amount Awards and Cost Principles

This section states that cost principles do not apply to capitation awards, scholarships, fellowships, traineeships, other fixed amounts, and fixed amount awards. However, section 200.400 states that cost principles must be used in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. Can you clarify the application of the cost principles to fixed-price and fixed-rate awards and subawards?

For fixed amount awards described in 200.400 and 200.401, the cost principles should be used as a guide when proposing (pricing) the work that will be performed, but are not formally used as compliance requirements for 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.

200.413

.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 from the Federal awarding agency to continue charging those costs to the new incremental funds. If I list my intention to continue charging those costs in my next continuation progress report and the

Federal awarding agency issues my award without making any mention of my request, does that count as prior written approval?

It depends. Non-Federal entities should refer to the terms and conditions of their Federal award or address their questions to the Federal awarding agency awarding official (or pass-through entity if appropriate) to clarify when pre-approval has been granted.

200.414

.414-1 De Minimis Rate and Governments

Is the 10 percent de minimis rate for new organizations which have never negotiated an IDC rate at 200.414 (f) available to governmental organizations or tribal government entities which have never negotiated an IDC rate?

Yes. Provision of the 10 percent de minimis indirect cost rate is conditioned on the non-Federal entity meeting the requirements specified at 200.414 (f). These include limiting availability to organizations that have never received a negotiated indirect cost rate, except for those described in Appendix VII of Part 200, paragraph (D)(1)(b) "governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal..." State and local government departments that have never negotiated indirect cost rates with the Federal government and receive less than $35 million in direct Federal funding per year may use the 10% de minimis indirect cost rate, and must keep the documentation of this decision on file. Federally recognized Indian tribes that have never negotiated an indirect cost rate with the Federal government may also use the 10% and must keep the documentation of this decision on file.

.414-2 Indirect Cost Rate Extensions – "Current" and "one-time"

Section 200.414(g) of the Uniform Guidance states: "Any non-Federal entity that has a federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rates for a period of up to four years."

- What is meant by the term "current negotiated indirect cost rates"?
- What is meant by the term "one-time"?

A current negotiated indirect cost rate is the negotiated rate *in effect (i.e., not expired)* when the non-Federal entity requests a rate extension. Rate extension requests will only be considered once in a rate negotiation cycle. 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.

.414-3 Timing of Request for Extension

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

Such requests should be submitted 60 days prior to the due date of the next proposal for indirect costs, but cognizant agencies for indirect costs can accept extension requests submitted later than that on a case by case basis.

.414-4 Extensions and Fixed-Rates with Carry-Forward

How might an organization with negotiated fixed rates with carry-forward effectively use the option for an extension of a current negotiated rate provided by 200.414(g)?

A fixed-rate with carry-forward agreement cannot be extended. If a non-Federal entity with a fixed-rate with carry-forward agreement would like to take advantage of the flexibilities in this provision of the Uniform Guidance, it would need to first negotiate a final or predetermined rate, which could then be extended, subject to the approval of the cognizant agency. The carry-forward for the last fixed year would have to be resolved in accordance with cognizant agency for indirect cost procedures.

.414-5 (Previously Q IV-3) Extensions and Old Rates, Shorter Extensions

Can an entity extend their rate for up to 4 years even if it's a really old rate (say 10 years ago)? Can they only extend for 4 years? What about 3 years or 2 years?

- Uniform Guidance in section 200.414 states that any non-Federal entity with a federally negotiated indirect cost rate may apply for a one-time extension for a period of up to 4 years. The extension is subject to the review and approval of the cognizant agency for indirect costs.
- Requests for extensions may be for periods of less than 4 years. The extension period is subject to the review and approval of the cognizant agency for indirect costs.

200.415

.415-1 Authorization to Legally Bind the non-Federal entity

This section requires certain financial reports and payment requests to be signed by someone who is "authorized to legally bind the non-Federal entity." How should a non-Federal entity determine who has that authority?

It is up to the non-Federal entity to determine how best to establish the authority to legally bind the non-Federal entity.

200.430

.430-1 Authorization of Changes to Time and Effort Systems

Section 200.430(a) provides new guidance for the costs of salaries and wages. What processes do non-Federal entities need to follow to be authorized to change their current systems for documenting payroll charges? Can non-Federal entities make incremental changes that reduce burden but maintain the spirit of their current processes? For those institutions that are required to file a DS-2, what is the role of the DS-2 in this process?

Changes to the process through which payroll charges are documented are allowable and can be implemented when the non-Federal entity complies with the guidance in this section, including standards defined in paragraph .430(i) Standards for Documentation of Personnel Expenses. For non-Federal entities that disclose their current process in a DS-2, any change will require a corresponding change in the DS-2. In most cases, this simply means that the non-Federal entity would revise its current DS-2 and provide a high level summary of the processes that meet paragraph (i). The DS-2 should be comprehensive enough to document the non-Federal entity's accounting practices without further information. Non-Federal entities can develop solutions that meet the requirements in paragraph (i) and reduce the burden related to their current process whether they be incremental or more significant, including complete elimination of current systems.

.430-2 Time and Effort and Tribes

In paragraph 200.430(i)(5) regarding compensation for personal services, "For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph 200.430(i)(5)(1) if approved by the cognizant agency for 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 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?

Based on the COFAR's recommendation, OMB will issue a technical correction to clarify that the fringe benefit rate process (in addition to the indirect cost process) can also be used for payments of unused leave, worker's compensation, unemployment compensation, severance pay, and similar employee benefits. If a non-Federal entity uses specific identification for fringe benefits, then it can only charge termination leave (or other fringe benefit costs) in the indirect cost rate (if it charges leave on the cash basis), but if it has fringe benefit rates, it could charge termination leave (or other fringe benefit costs) through either its fringe benefit rate or its indirect cost rate. Generally, the preference would be to include the termination leave costs (or other fringe benefit costs) as part of the fringe benefit rate(s) if these costs are already included. If these costs are included in the indirect cost rate for non-Federal entities required to submit long-form proposals, then they would have to go to General Administration (GA) and, in the case of IHEs, would be subject to the 26% administrative cap for IHEs.

200.436

.436-1 Depreciation and Cost Sharing

Section 200.436(c)(3) states the following is excluded from the acquisition cost of the asset: "Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery." This would suggest that the depreciation on the institutional/matching/cost sharing contributions to construction and major instrumentation is unallowable for recovery. FAQ .436-2 (previously IV-1) clarifies that this qualification is limited to instances of cost sharing or matching, but the language remains unclear, and could be interpreted inappropriately to reverse longstanding Federal policy allowing institutions to recover through their F&A rates their contributions to construction projects and instrumentation partially funded through Federal awards, unless prohibited by law or agreement. Is depreciation on the institutional contribution allowable, even in cases of cost sharing or matching?

Yes, depreciation on the institutional contribution is allowable, unless law or agreement prohibits recovery. Based on the COFAR's recommendation, OMB will issue a technical correction to the Uniform Guidance to clarify.

.436-2 (Previously Q IV-1) Depreciation and Cost Sharing

Per 200.436(c)(3), the acquisition cost of depreciable assets will exclude: "Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery." Is this qualification limited to instances of cost sharing or matching or does it apply more broadly?

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. **For this purpose, the acquisition cost will exclude**: ...(3) Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery;"

200.440

.440-1 Prior Approval for Fluctuations in Exchange Rates

This section requires Federal awarding agency prior approval for fluctuations in exchange rates (for international projects). How can prior approval be obtained when the exchange rate may fluctuate on a daily basis as expenditures occur?

Prior approval is not required every time the exchange rate changes and a Federal award is charged. Approval of exchange rate fluctuations are required only when the change results in the need for additional Federal funding, or the increased costs results in the need to significantly reduce the scope of the project.

200.444

.444-1 Salaries and wages for Tribal Councils

In section 200.444 the guidance now includes language that up to 50% of the salaries and expenses for the tribal council can be included in the indirect cost calculation without documentation. Does this include the Chairman or equivalent?

Yes, provided these expenses are allocable to managing and operating Federal programs.

200.458

.458-1 Pre-Award Costs

I want to request pre-award spending in October 2014 for my award that will be funded soon after the Uniform Guidance goes into effect. How can I make sure the costs I incur will be allowed on my grant?

All pre-award spending is incurred at the non-Federal entity's own risk, since the terms and conditions of the Federal award are not yet known. In the event that a non-Federal entity incurs a cost that subsequently is not allowed by that Federal awarding agency's implementation plan, that cost must be removed unless the Federal awarding agency agrees in writing to grant a retroactive approval for that cost in that circumstance.

.458-2 (Previously Q IV-2) Uncommitted Cost Sharing

Uncommitted cost sharing is not discussed in the Uniform Guidance. Is the OMB Clarification of Uncommitted Cost Sharing in OMB M-01-06 dated January 5, 2001 still applicable?

• Yes. The OMB Clarification on uncommitted cost sharing is available here:
http://www.whitehouse.gov/sites/default/files/omb/assets/omb/memoranda/m01-06.pdf

200.512

.512-1 Tribes Opting out of Online Report Publication- Definition of Tribal Entities

In section 200.512 regarding Report Submission, tribes have the option to opt out. If they choose to exercise this option, they are responsible for providing their audit reports to any pass-through entities. When do 'tribal entities' meet the requirements as an Indian tribe and become eligible to opt out? Does this apply to all entities of the tribe? For example, hospitals, clinics, housing authorities, and tribal economic development entities?

This determination is dependent on how the tribal entity is organized and reports under Subpart F of the Uniform Guidance. If the entity is established as part of an Indian tribe that meets the definition of 200.54, accountable to tribal governance, and included with the Indian tribe's reporting under Subpart F; then the Indian tribe's election to opt out under 200.212(b)(2) would include the tribal entity. However, if the organization is established as a

nonprofit organization outside of the tribe, it would not meet this definition. For example, a nonprofit organization as defined at 200.70 that files its single audit separately could not elect to opt out under section 200.512(b)(2).

.512-2 Availability of Reports for Public Inspection

Section 200.512 states "Unless restricted by Federal statute or regulation, if the auditee opts not to authorize publication, it must make copies of the reporting package available for inspection". Please clarify. Does this mean any individual could ask for a financial statement?

As has always been the case under the Single Audit Act, any individual may ask for a non-Federal entity's single audit report (which includes financial statements). A non-Federal entity would be required to determine whether Federal statute provides an exception to the Single Audit Act and furnish the report accordingly.

.512-3 Waivers for low-risk auditee standards

With regard to section 200.512 issuing financial statements on primarily governmental core activities (excluding economic development activities for example) the reports would be considered modified. A modification to a report results in the auditee not being considered low risk. Previously an auditee could apply for a waiver for low-risk auditee standards; this is no longer available and was not addressed in the Uniform Guidance. An inaccurate high-risk assessment may cause additional burden and challenges for tribes.

The COFAR considered this and found that the waiver process held significant potential for additional administrative burden and inconsistency across government, and that in practice Federal awarding agencies historically received extremely few requests for waivers. As a result, the COFAR recommended eliminating the waiver provision from the Uniform Guidance.

.512-4 (Previously Q V-1) Application of Option Not to Publish for Tribes

In Section 200.512 paragraph (b)(2) regarding Report Submission, tribes have the option to opt out of authorizing the Federal Audit Clearinghouse (FAC) to make the reporting package publically available on a Web site. Does this apply to all entities associated with the tribe? For example, would hospitals, clinics, housing authorities, and economic development entities associated with a tribe be permitted to use this option?

This option applies and is limited to entities meeting the definition of "Indian tribe" in section 200.54. However, if a tribe elects this option they are required to provide a copy of their reporting package to pass-through entities and make a copy of their reporting package available for public inspection as required by the Single Audit Act Amendments of 1996. The impact of the option is the exclusion of the reporting package from public availability on the FAC Web site.

.512-5 (Previously Q V-2) Single Audit Accountable Official

In section 200.513 a "Single Audit Accountable Official" is required and will be responsible for overseeing the Single Audit. Can you clarify this position? Is this an additional position on top of the National Single Audit Coordinators in the agency's Office of Inspector General (OIG)?

• Section 200.513(c)(5) requires Federal awarding agencies to provide OMB the name of a single audit accountable official from among the senior policy officials of the agency and for this official to designate the agency's key management single audit liaison at a working level to facilitate the agency's day to day activities related to the single audit process. The responsibilities of these positions as outlined in the section 200.513(c)(5) and (6) are to ensure agency management effectively uses the single audit process to reduce improper payments and improve Federal program outcomes and to hold agency management accountable for doing so through metrics. In addition to improving the agency's use of the single audit process, the designation of these officials will facilitate interagency coordination to carry out the COFAR's strong program oversight agenda such as improving audit resolution, single audit metrics, making better use of Federal Audit Clearinghouse data, and revising the

Compliance Supplement to focus on the requirements most likely to cause improper payments, waste, fraud, and abuse.

• Since these two new designees relate to management responsibilities and since the OIG is independent of management, these management officials will be organizationally separate from the OIG.

• Some OIGs have a member of their staff designated as the national single audit coordinator who has responsibilities related to the single audit process consistent with the OIG duties under the IG Act. While management and OIG functions are separate, they both have goals related to accountability for Federal awards and effective use of the single audit process. Therefore it is expected that the agency's single audit accountable official and key management single audit liaison would work together and coordinate with the OIG national single audit coordinator while respecting the independence of the OIG under the IG Act.

Appendix III

Appendix III-1 Utility Cost Adjustment

Section B.4.c, Operation and maintenance expense, includes guidance on the allocation of utility expenses. All IHEs now are eligible to receive up to a 1.3% utility cost adjustment on the institution's F&A rate. Some of the direction for the allocation utility expense is not clear and could create uncertainty when an institution negotiates their F&A rate with its cognizant agency for indirect costs. If there is a disagreement in interpretation, how should this situation be resolved?

Sections C.11.f, g, and h of Appendix III include processes and procedures for ensuring an objective and fair negotiation of rates. When there are areas of disagreement, IHEs and the cognizant agency for indirect costs should follow the processes and procedures described in sections C.11.f, g, and h, and further work toward resolving disagreements in a collaborative manner. OMB may be consulted when there are questions applicable to the interpretation of the Uniform Guidance.

Appendix V

Appendix V-1 SWCAP For Tribes

Did this appendix replace Appendix C to Part 225 – State/Local-Wide Central Service Cost Allocation Plans (SWCAP)? If so, why did the Appendix's new title include reference to Indian tribes? SWCAPs have historically been applicable to states and U.S. territories, not Indian tribes.

Yes, Appendix V to part 200 does replace Appendix C to Part 225 and provides guidance on the preparation, submission and approval of Statewide Cost Allocation Plans (SWCAP). Indian tribes are not required to prepare and submit tribe-wide cost allocation plans for reimbursement of indirect costs. Based on the COFAR's recommendation, OMB will issue a technical correction to remove Indian tribe in the title of Appendix V.

Previous FAQs – Background on Uniform Guidance

I - Process and Background

Q I-1: When and why did we begin this process?

• This Uniform Guidance was developed in response to the November 23, 2009 Executive Order 13520 on Reducing Improper Payments and the February 28, 2011 Presidential Memorandum on Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments.

• In those documents, the President directed OMB to work with Executive Branch agencies; state, local, and tribal governments; and other key stakeholders to evaluate potential reforms to Federal grants policies.

• The Council on Financial Assistance Reform (COFAR) was established in October 2011 and has led several efforts to improve delivery, management, coordination, and accountability of Federal grants and cooperative agreements, which includes the development of the Uniform Guidance.

Q I-2: How have we engaged stakeholders over the past two years?

• This reform follows OMB's February 1, 2013 Notice of Proposed Guidance (NPG) and February 28, 2012 Advance Notice of Proposed Guidance (ANPG) published in the Federal Register.
• The COFAR also hosted a public webcast on the NPG (available at cfo.gov/COFAR) and participated in public discussions of the proposed reforms when invited by interested stakeholders.
• The ANPG and NPG each received more than 300 public comments, which are available to the public on www.regulations.gov
• The process has been led by the COFAR, an interagency council of OMB, the eight largest Federal grant-making agencies and one rotating small grant-making agency. Other Federal grant making agencies have provided input as well.

Q I-3: How does this reform complement OMB's work on the Evidence Agenda?

• These reforms complement targeted efforts by OMB and a number of Federal agencies to reform overall approaches to grant-making by implementing innovative, outcome-focused grant-making designs and processes in collaboration with their non-Federal partners as described in OMB Memorandum 13-17, Next Steps in the Evidence and Innovation Agenda.
• The Uniform Guidance will provide a backbone for sound financial management as Federal agencies and their partners continue to develop and advance innovative and effective practices
• OMB plans to work with agencies to examine ways these new flexibilities can be used to support innovative, outcome-focused grants.
• Specifically this reform focuses on performance over compliance for accountability by; (see Q I-7 #2 under What is the Impact of this reform? below)

Q I-4: Did OMB hold formal consultations with Indian Tribes?

• In addition to the two formal comment periods and public webcast on the reform, OMB held three conference calls with tribal leaders on February 10, 2012, March 15, 2012, and May 22, 2013.

Q I-5: Who will be impacted by this reform?

• This reform will impact Federal agencies, non-Federal entities (states, local governments, Indian tribes, institutions of higher education (IHE), and nonprofit organizations) that receive Federal awards as a recipient or subrecipient, and their auditors. (See expected impact below. Q I-7))

Q I-6: Where can I get more information about the policies that are changed?

• Please visit www.cfo.gov/COFAR for more information on the following resources:
o A link to a recorded webcast that was broadcast on December 20, 2013.
o A link to a recorded training webcast that was broadcast on January 27, 2014.
o Crosswalks and side-by-sides that explain where to find revised sections of the old guidance in the Uniform Guidance and show the language from the old guidance next to the new language. These crosswalks and side-by-sides are available at
http://www.whitehouse.gov/omb/grants_docs

Q I-7: What is the impact of this reform? How does this reform reduce administrative burden and risk of waste, fraud, and abuse?

• Here is a list of ways that the Uniform Guidance reduces administrative burden and risk of waste fraud and abuse:

1. Eliminating duplicative and conflicting guidance:
 By combining eight previously separate sets of OMB guidance into one, OMB has eliminated about 80 pages (or about 25% of pages) of overlapping duplicative and conflicting provisions of guidance that were developed separately over many years.

- Beyond dealing with the administrative burden associated with understanding such guidance, non-Federal entities have faced risks of more restrictive oversight and audit findings that stem from inappropriate applications of the guidance caused by overlapping requirements.
- This completes a long-standing goal of co-locating all related OMB guidance into Title 2 of the Code of Federal Regulations.

2. Focusing on performance over compliance for accountability (linking to the OMB Evidence Agenda):
• By expanding options for fixed amount awards based on meeting performance milestones.
• Set the stage for OMB waivers to approve new strategies for innovative program designs that draw on OMB guidance in M-13-17.
• Streamline reporting requirements for salaries and wages to focus on high standards for internal controls with flexibility for non-Federal entities in how they meet the standards. Also includes flexibilities for entities that have approval to try new approaches based on outcomes or to combine funds from multiple programs.

3. Encouraging efficient use of information technology and shared services:
• Updated provisions account for the efficient use of electronic information, as well as the acquisition and use of the information technology systems and shared services that permeate an effective and modern operating environment.
• These provisions encourage non-Federal entities to, whenever practicable, collect, transmit and store Federal award-related information in open and machine-readable formats in accordance with the May 9, 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information.

4. Providing for consistent and transparent treatment of costs:
• Updated policies on indirect cost reduce administrative burden by providing more consistent and transparent treatment governmentwide.
• The provisions set conditions that make transparent agency decisions to use other than approved indirect cost rates, and provide for a de minimis indirect cost rate for those non-Federal entities that have never had a rate and for whom existing requirements to negotiate might be a burden that prevents them from receiving assistance at all or implementing it effectively.
• It also clarifies allowable direct charges for administrative expenses and contingency costs.

5. Limiting allowable costs to make the best use of Federal resources:
• Language is strengthened in certain areas such as conferences, morale, relocations, and student activities to appropriately limit allowable costs under Federal awards.

6. Setting standard business processes using data definitions:
• Updated provisions set the stage for Federal agencies to manage Federal awards via standardized business process and use of consistently defined data elements.
• This will reduce administrative burden on non-Federal entities that must navigate the processes of multiple Federal agencies as they manage information required to implement Federal awards.

7. Encouraging non-Federal entities to have family-friendly policies:
• Provisions in the 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:
• New language requires Federal agencies and pass-through entities to review the risk associated with a potential recipient prior to making an award (including by making better use of available audit information where appropriate).

• It also requires disclosures of relevant conflict of interest or criminal violations, expressly prohibiting profit, requiring certifications by senior officials of the non-Federal entity, and providing Federal agencies with strong remedies to address situations of non-compliance.

9. Targeting audit requirements on risk of waste, fraud, and abuse:
• The Uniform Guidance focuses audits where there is greatest risk of waste, fraud, and abuse of taxpayer dollars.
• It strengthens existing requirements for Federal agencies to rely to the extent possible on the work of the Single Audit before initiating additional audits.
• It improves transparency and accountability by making single audit reports available to the public online and encourages Federal agencies to take a more cooperative approach to audit resolution that will more conclusively resolve underlying weaknesses in internal controls.
• Targets Federal oversight resources where the most Federal dollars are at risk by raising the threshold for the single audit requirement from $500,000 to $750,000, covering over 99% of the funds currently covered while eliminating the requirement for about 5,000 entities and saving the government about $250 million per year.

Q I-8: Why and how did the COFAR reach some of the particular policy recommendations that they did? What are the major differences between the final guidance and the proposed guidance? Can you give us an example of a policy call where the COFAR had to make some tough tradeoffs and share some of the thinking behind the decision?

• OMB worked with the COFAR to review the many valuable comments on the proposal received from different stakeholders.
• The COFAR recommended improving policies that protect against waste, fraud, and abuse, while reducing unnecessarily burdensome administrative requirements, and so reorients recipients toward achieving program objectives.
• For a complete discussion of the COFAR's policy recommendations, please see the preamble published with the Uniform Guidance at https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrativerequirements-cost-principles-and-audit-requirements-for-federal-awards.
• The policy outcomes in the Uniform Guidance reflect recommendations from the COFAR to OMB after considering feedback from all stakeholders.
• The COFAR deliberated carefully on each issue, and recognized that in some cases it was impossible to please everyone.
• For example, on the single audit threshold, some stakeholders recommended a higher level, while others recommended a lower one, while all stakeholders agreed that the audit threshold was an important piece of the single audit process.
• Single Audits must be viewed both in terms of how they are performed as well as the broader framework of internal controls in place, particularly those governing the relationships between pass-through entities and subrecipients.
• The COFAR recommended the audit threshold be raised to $750,000 because that is a level that continues to provide coverage for over 99% of the Federal dollars that are currently covered by the Single Audit, while relieving burden for over 5,000 entities and allowing Federal oversight resources to be targeted where the most Federal dollars are at risk.
• The COFAR considered this reform carefully in the context of the other recommended reforms.
• For more details on this and other specific areas of reform, please visit www.cfo.gov/COFAR.

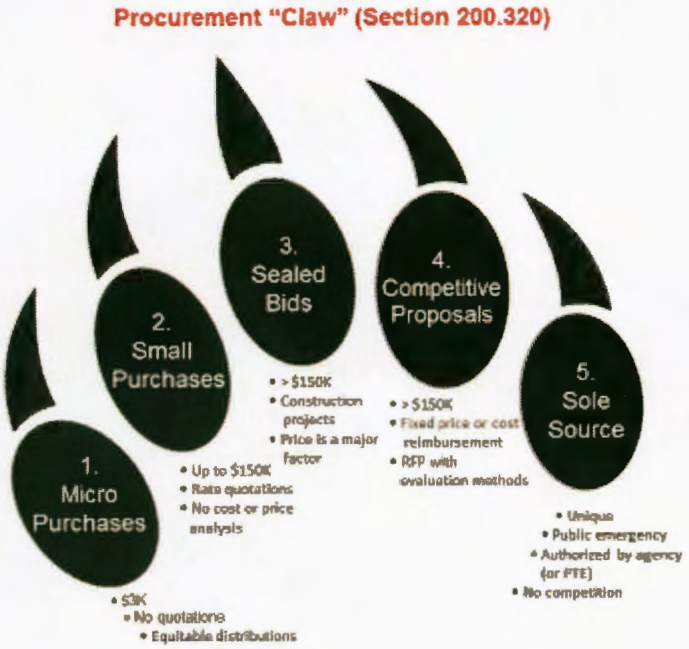
Q I-9: What are the other COFAR priorities this year?

• The COFAR's highest priority this year is facilitating smooth implementation of the Uniform Guidance.
• For additional information on the COFAR's coming work, please see the presentation available here: https://cfo.gov/wp-content/uploads/2013/12/2013-12-04-COFAR-Priorities-forPrincipals.pdf
• For further information about all COFAR activities, please visit www.cfo.gov/COFAR

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?

• **The preamble constitutes the COFAR's responses to comments, and this FAQ document will be updated periodically to reflect further COFAR clarifications where needed.**

Attachment 1: Procurement "Bear claw"



Procurement "Claw" (Sections 200.317-326)
1. Micro Purchases
2. Small Purchases
3. Sealed Bids
4. Competitive Proposals
5. Sole Source
General Standards:
A. Documented Policies
B. Necessary
C. Full & Open Competition
D. Conflict of Interest
E. Documentation
i. Cost & Price Analysis
ii. Vendor Selection