

# The Uniform Guidance



# The Uniform Guidance FAQ



VANDER WEELE GROUP<sup>LLC</sup>  
*Making Monitoring Meaningful*

## A FRAMEWORK FOR FEDERAL GRANTS MANAGEMENT

Whether a federal grant program serves students, veterans, or individuals with disabilities, one key regulation governs its fiscal management: the Uniform Guidance.



## WHAT IS THE UNIFORM GUIDANCE?

Technically called the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the Uniform Guidance is an authoritative set of rules and requirements for Federal awards. It goes by other names: the OmniCircular or the Supercircular. Why? Because when the regulation was overhauled in 2014, it combined eight OMB Circulars. The Uniform Guidance was updated on August 13, 2020.

## WHAT IS AN OMB CIRCULAR?

An OMB Circular is a set of instructions or information issued to Federal agencies by the Office of Management and Budget (OMB) of the White House. Previously, federal awards were governed by eight different circulars. Examples include The Single Audit Act (OMB Circular A-50), Cost Principles for Educational Institutions (OMB Circular A-21), Grants and Cooperative Agreements with State and Local Governments (OMB Circular A-102), Audits of States, Local Governments, and Non-Profit Organizations (OMB Circular A-133) and more.

## WHERE IS THE UNIFORM GUIDANCE LOCATED?

The Uniform Guidance is part of the Code of Federal Regulations (CRF). Specifically, it is found in Title 2 of the CFR, Part 200 (2 CFR 200).

## WHO CREATED THE UNIFORM GUIDANCE?

The Council on Financial Assistance Reform (COFAR) was delegated the responsibility of developing the Uniform Guidance. COFAR was led by the OMB and eight largest federal grant-making agencies. These included the Departments of Agriculture, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Labor, and Transportation. The COFAR has since been disbanded.

## WHAT DOES THE UNIFORM GUIDANCE SAY ABOUT SUBRECIPIENT MONITORING?

When Federal funds flow through to a state, county, or city, those agencies must monitor the use of funds received from a Federal grant to assure compliance with applicable Federal requirements and to assure performance expectations are being achieved. (See 2 CFR 200.328 (a).) That's a two-part requirement: government agencies receiving grant awards must monitor for both compliance and performance. To be more specific, all Pass-Through entities must monitor activities of the Subrecipient to ensure Federal grant funds, or the "subaward," as it is called, are used for authorized purposes and in compliance with:

- the terms and conditions of the subaward,
- regulations, and
- Federal statutes.

Furthermore, each program, function or activity must be monitored to ensure that subaward performance goals are achieved. (See 2 CFR 200.328 (a).)

## WHAT IS A PASS-THROUGH ENTITY?

A Pass-Through Entity is a non-Federal entity that provides a subaward to a Subrecipient to carry out its part of a Federal program. (See 2 CFR 200.74.) Types of Pass-Through Entities include, but are not limited to, state, county, and city governments.

# WHAT IS A SUBRECIPIENT?

A Subrecipient is a non-Federal entity that receives a subaward from a Pass-Through Entity to carry out part of a Federal program. (See 2 CFR 200.93.)

# WHAT DOES THE UNIFORM GUIDANCE SAY ABOUT INTERNAL CONTROLS?

Non-Federal entities are required to establish internal control systems which ensure that all transactions are recorded and accounted for, and are in compliance with Federal statutes, regulations and the terms and conditions of the Federal award. Funds, property and other assets must be safeguarded against unauthorized use or disposition. An effective internal control system will ensure the non-Federal entity's activities and use of Federal funds are compliant through ongoing monitoring and evaluation, taking prompt action when instances of non-compliance are identified. Mechanisms to protect information considered sensitive according to Federal, State, and local laws regarding privacy and obligation of confidentiality, including personally identifiable information, must also be built into the internal control system of the non-Federal entity.



# INTERNAL CONTROL



## CONFLICTS OF INTEREST UNDER THE UNIFORM GUIDANCE

The Uniform Guidance requires both Federal agencies and non-Federal entities to establish conflict of interest policies relating to the award or receipt of federal funds. Such policies regarding the selection and administration of contracts supported by the Federal award govern the conduct of the following parties:

- An employee
- An officer
- An agent
- Their partner
- Their immediate family member
- An organization which employs or is about to employ any of these parties.
- An organization that is the parent, affiliate, or subsidiary organization of a non-Federal entity, which is not a state, local government, or Indian tribe

None of these parties may:

- Participate in the selection, award, or administration of a contract if they have an interest, financial or otherwise, or stand to benefit, personally or tangibly, from a firm considered for a contract
- Solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to the subcontracts

Under the Uniform Guidance, non-Federal entities must:

- Disclose any potential conflicts of interest to the Federal awarding agency and/or pass-through entities
- Use their own discretion to set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value
- Discipline offending parties should standards of conduct be violated

# ALLOWABLE AND UNALLOWABLE COSTS UNDER THE UNIFORM GUIDANCE

**Under the Uniform Guidance, costs may be charged to Federal awards provided they are:**

- Necessary for the performance or administration of the grant
- Given consistent treatment; for example, costs may not be considered direct costs if costs used for similar purposes and in similar circumstances were previously considered indirect costs
- Reasonable, meaning individuals act with prudence, ensuring costs are:
  - comparable to market prices for similar goods and/or services for the geographic area
  - necessary for the operation of the non-Federal entity
  - in compliance with the terms and conditions of the Federal award
  - in compliance with Federal, state and other laws and regulations
  - Adequately documented
  - In accordance with Generally Accepted Accounting Principles

(See 2 CFR 200.403 and 2 CFR 200.404)

**Under the Uniform Guidance, the following expense categories generally may NOT be charged to Federal awards:**

## **Advertising and Public Relations**

*Prohibited expenses include:*

- Advertising costs solely for the promotion of the non-Federal entity
- Expenses such as the costs of renting facilities, wages for employees running display booths, and display materials of advertising and public relations at meetings, conventions, or other events related to the entity.
- Costs of promotional materials such as gifts, souvenirs, etc.

*Exceptions include:*

- Expenses solely for the recruitment of personnel or the procurement of necessary goods and services required for the operation of the grant program
- Expenses for program outreach and other purposes necessary to meet the requirements of the award
- Expenses for communicating with the public and press on matters pertaining to the award or matters of public concern

(See 2 CFR 200.421 (b), (d) and (e))

## **Selling and Marketing**

*Prohibited expenses include:*

- Costs of selling or marketing any products or services of the non-Federal entity

*Exceptions include:*

- Selling and marketing expenses approved by the Federal awarding agency
- Selling and marketing expenses necessary for the performance of the Federal award

(See 2 CFR 200.467)

## **Lobbying**

*Prohibited expenses include:*

- Costs associated with persuasive activities for the purpose of obtaining grants, contracts, cooperative agreements or loans
- Costs resulting from attempts to improperly influence an employee or officer of the executive branch of the Federal Government regarding a Federal award or regulatory matter

(See 2 CFR 200.450)

## **Advisory Councils**

*Prohibited expenses include:*

- Costs incurred by advisory councils or committee

*Exceptions include:*

- Costs of advisory councils or committees that are authorized by statute, the Federal awarding agency, or as an indirect cost where allocable to Federal awards

(See 2 CFR 200.467)

## **Capital Expenditures**

*Prohibited expenses include:*

- Costs of general purpose equipment, buildings, and land
- Costs of improvements to land, buildings, or equipment which materially increase their value or useful life

*Exceptions include:*

- Capital Expenditures previously approved by the Federal awarding agency or pass-through entity

(See 2 CFR 200.439 (b))

## Fines, Penalties, Damages, and Other Settlements

*Prohibited expenses include:*

- Expenses resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local, or foreign laws and regulations

*Exceptions include:*

- Expenses incurred as a result of compliance with specific provisions of the Federal award, or with prior approval of the Federal awarding agency

(See 2 CFR 200.441)

## Bad Debts

*Prohibited expenses include:*

- Debts determined to be uncollectable
- Losses from uncollectable accounts and other claims
- Expenses incurred from related legal costs

(See 2 CFR 200.426)

## Contributions and Donations

*Prohibited expenses include:*

- Contributions and donations such as cash, property, and services from non-Federal entity to other entities
- Including the value of services and property donated to the non-Federal entity
- Including the value of services volunteered to the non-Federal entity, whether by professionals, technical personnel, consultants, and other skilled and unskilled labor

(See 2 CFR 200.434)

## Memberships, Subscriptions, and Professional Activity

*Prohibited expenses include:*

- Costs of membership in any country, social, or dining club or organization
- Costs of memberships in organizations whose primary purpose is lobbying

(See 2 CFR 200.454)



## Alumni Activities

*Prohibited expenses include:*

- Costs incurred by institutions of Higher Education for, or in support of, alumni activities

(See 2 CR 200.424)

## Student Activity

*Prohibited expenses include:*

- Costs of intramural activities, student publications, student clubs, and other student activities

*Exceptions include:*

- Expenses of student activities specifically provided for in the Federal award

(See 2 CFR 200.469)

## Travel

*Prohibited expenses include:*

- Expenses for airfare which exceeds the least expensive unrestricted accommodations class offered by commercial airlines

*Exceptions include:*

- Expenses for airfare that exceeds the least expensive accommodations when such accommodations would:
  - Require travel during unreasonable hours
  - Require circuitous routing
  - Prolong travel excessively
  - Result in additional costs that would offset the transportation savings
  - Offer unreasonable and inadequate accommodations for the traveler's medical needs

(See 2 CFR 200.474 (d) (1))

## Entertainment

*Prohibited expenses include:*

- Tickets to shows or sports events, meals, lodging, rentals, transportation, gratuities, flowers, gifts, prizes and awards
- Expenses related to amusement, diversion, and social activities

*Exceptions include:*

- Expenses related to entertainment which have a programmatic purpose and prior approval of the Federal awarding agency

(See 2 CFR 200.438)

## Alcoholic Beverages:

*Prohibited expenses include:*

- Expenses for alcoholic beverages

(See 2 CFR 200.423)

## WHAT DOES THE UNIFORM GUIDANCE SAY ABOUT DOCUMENTATION?

Under the Uniform Guidance, non-Federal entities must provide financial records sufficient for auditors to determine if Federal funds were spent in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Financial records must be supported with source documentation such as receipts, invoices, and contracts, so that auditors may easily discern exactly how Federal funds were used. The financial records must be comprehensive, and contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest.

### **Auditors may deem costs to be questionable if they are:**

- not supported by adequate documentation,
- found to be unreasonable, or
- in violation of a statute, regulation, or the terms and conditions of the Federal award.

Documentation must also be provided to prove that funds used for salaries and wages accurately reflect the work performed. Such documentation must be incorporated into the official records of the non-Federal entity and include payroll records, time sheets, time distribution records, and time and effort reports. Financial managers must provide assurance that charges are accurate, allowable, and properly allocated. Should they fail to meet these standards, auditors may ask for additional supporting documentation.





## WHAT DOES THE UNIFORM GUIDANCE SAY ABOUT EQUIPMENT?

The Uniform Guidance outlines expectations for managing and using equipment purchased with Federal funds. Equipment is defined as “tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial purposes, or \$5,000.” (2 CFR 200.33.)

Equipment must be used in the program for which it was acquired for as long as it is needed, whether or not the program continues to be supported by the Federal award. As long as it does not interfere with the operation of, or is no longer needed by the original program, the equipment should be made available for use in other activities supported by the Federal awarding agency.

Equipment cannot be encumbered without prior approval of the Federal awarding agency. Managers of Federally funded grant programs should maintain detailed equipment records and perform equipment inventories at least once every two years. That rule applies even if the equipment was only partly funded by the Federal grant. Maintenance procedures and control systems must be implemented to ensure equipment is kept in good working condition and is not lost, damaged, or stolen. If the non-Federal entity is authorized or required to sell the equipment, proper sales procedures must be established to ensure the highest possible return.



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# Questions?

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