

Uniform Guidance Changes Effective November 12, 2020: Updates to Definitions, Procurement, De Minimis, and More

In the fall of 2020, numerous revisions and updates were made to the Uniform Guidance. Some of the significant changes to the Uniform Guidance are noted below.

Definition Changes: Period of Performance, Budget Period, and Renewal - 2 CFR 200.309

The definition of period of performance and renewal was revised to clarify that the term period of performance reflects the total estimated time interval between the start of an initial Federal award and the planned end date, and that the period of performance may include one or more budget periods, but the identification of the period of performance does not commit funding beyond the currently approved budget period. The definition of budget period was updated to clarify that recipients are authorized to expend the current funds awarded, including any funds carried forward. Further, recipients may only incur costs during the first-year budget period until subsequent budget periods are funded based on the availability of appropriations, satisfactory performance, and compliance with the terms and conditions of the award.

New Section: Domestic Preferences for Procurement - 2 CFR 200.322

This new section of the Uniform Guidance encourages Federal award recipients to maximize use of goods, products, and materials produced in the United States when procuring goods and services under Federal awards. This section applies to procurements under a grant or cooperative agreement.

New Section: Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment - 2 CFR 200.216

This new section prohibits federal award recipients from using government funds to enter into contracts with entities that use covered communications telecommunications equipment or services. This prohibition applies even if the contract is not intended to procure or obtain, any equipment, system or service that uses covered telecommunications or services. The purpose of this section is public safety and contracting with certain entities is prohibited in connection with this section. This section became effective on August 13, 2020.

Procurement: Threshold and Grouping Changes - 2 CFR 200.320

The following changes were made to the procurement section of the CFR and policies of non-federal entities should be consistent with these updates:

- The procurement types were grouped into three categories: (1) Informal (micro-purchase, small purchase); (2) formal (sealed bids, proposals), and (3) Non-Competitive (sole source).
- The micro-purchase threshold was raised from \$3,500 to \$10,000.
- All non-Federal entities are now authorized to request a micro-purchase threshold higher than \$10,000 based on certain conditions that include a requirement to maintain records for thresholds up to \$50,000 and a formal approval process by the Federal government for thresholds above \$50,000.
- The simplified acquisition threshold was raised from \$150,000 to \$250,000.

Requirements for Pass-Through Entities - 2 CFR 200.332

This update clarifies that pass-through entities (PTE) are responsible for addressing only a subrecipient's audit findings that are specifically related to their subaward. In addition, the PTE may rely on the subrecipient's auditors and cognizant agency's oversight for routine audit follow-up and management decisions. These changes reduce the burden for PTEs by allowing a PTE to rely on the cognizant agency to address a subrecipient's entity-wide issues.

Expanded Use of De Minimis Rate - 2 CFR 200.414

Currently, the de minimis rate can only be used for non-Federal entities that have never received a negotiated indirect cost rate. The revision to this section expands use of the de minimis rate to all non-federal agencies, with some exceptions. Another update clarifies that when a non-federal entity is using the de minimis rate for its federal grants, it is not required to provide proof of costs that are covered under that rate. Additionally, for transparency purposes, a new paragraph (h) to § 200.414, requires that negotiated agreements for indirect cost rates are to be collected and displayed on a public website.