Taking the Ugh! Out of the UG

The Uniform Guidance

One of the most important steps in federally sponsored program management in decades.....
The Uniform Guidance

—Are you serious????? I just learned all that stuff in OMB Circulars A-21, A-110 and A-133!!!!!!!

—Oh my!!!! What if I do something wrong?

—Please, please, please, can I have my old rules back?

The Uniform Guidance

Really, a federal document that is easy to understand?

Seriously, I can charge computers to my grant? Hooray!!!!!!!
Why Revise Previous Circulars and Guidance?

- Too many different “voices” and rules in a time of increasing collaborations
- Need for improved guidance and streamlining of the grant management process
- Bringing the rules into the current environment (for example, “computers”)
- Reduce fraud (but the burden of management is on the recipient)

Reduce Administrative Burden

- Administrative burden surveys indicate faculty spend almost 42% of their time managing research instead of actually conducting research
- Previous guidance was too prescriptive and burdensome on recipients
Streamline Governance

- The **GOAL** of this reform is to:
  - streamline our guidance for Federal awards to **ease administrative burden** and
  - strengthen oversight over Federal funds to **reduce risks of waste, fraud, and abuse**.
- Will increase the **efficiency and effectiveness** of Federal awards
- **Conflicting** Perspectives: Audit, Agencies, and Recipients

We got what we wanted...

Less prescriptive “rules”
What is the UG?

- The Uniform Guidance, or UG, is the Federal government’s new streamlined guidance combining all of the Office of Management and Budget Circulars related to governance of grants and cooperative agreements (700+ pages)
- It also embodies certain aspects of contract requirements
- Applies to new awards and incremental funding made after December 26, 2014
- Interim transition period may involve managing to two sets of rules (previous Circulars and new UG)
But I finally understood the old way!!!

Areas of significant change

- Must/Should
- Internal controls
- Procurement
- Clerical/Administrative Salaries
- Family Friendly & “Modern” Language
- Subrecipient Monitoring
- Effort reporting
Important Concepts in OMB Circulars

- Purpose and Scope – What Applies
- Pre-award Guidance to Agencies
- Post-award Requirements and Standards
- Accumulating and Charging Costs
- Audit Standards

Uniform Guidance Structure

- Preamble – Major Policy Reforms
- Subpart A (200.0 – 200.99) – Acronyms and Definitions
- Subpart C (200.200 – 200.211) – Pre-Award Requirements
- Subpart D (200.300 – 200.345) – Post-Award Requirements
- Subpart E (200.400 – 200.475) – Cost Principles
- Subpart F (200.500 – 200.521) – Audit Requirements (includes Appendices I-XI)
Uniform Guidance: New Definitions

- Combines definitions from all circulars
- Adds several new definitions and clarifies/updates others
- Example: “Computing Devices”

Uniform Guidance: New Acronyms

- FAIN– Federal Award Identification No.
- IHE– Institution(s) of Higher Education
- COFAR – Council on Financial Assistance Reform
- EUI– Energy Usage Index
- FAC– Federal Audit Clearing house
- FAPIIS – Federal Awardee Performance and Integrity Information System
- GOCO – Government Owned Contractor Operated
- IBS – Institutional Base Salary
- PII– Personally Identifiable Information
- PRHP – Post Retirement Health Plans
- PTE– Pass through entity
- REUI– Relative Energy Usage Index
- SPOC – Single Point of Contact
- VAT – Value Added Tax
Subpart B: General Provisions

- **Contents**
  - §200.100 Purpose.
  - §200.101 Applicability.
  - §200.102 Exceptions.
  - §200.103 Authorities.
  - §200.104 Supersession.
  - §200.105 Effect on other issuances.
  - §200.106 Agency implementation.
  - §200.107 OMB responsibilities.
  - §200.108 Inquiries.
  - §200.109 Review date.
  - §200.110 Effective/applicability date.
  - §200.111 English language.
  - §200.112 Conflict of interest.
  - §200.113 Mandatory disclosures.

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

- §200.200 Purpose.
- §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.
- §200.202 Requirement to provide public notice of Federal financial assistance programs.
- §200.203 Notices of funding opportunities.
- §200.204 Federal awarding agency review of merit of proposals.
- §200.205 Federal awarding agency review of risk posed by applicants.
- §200.206 Standard application requirements.
- §200.207 Specific conditions.
- §200.208 Certifications and representations.
- §200.209 Pre-award costs.
- §200.211 Public access to Federal award information.
- §200.212 Suspension and debarment.
Subpart D: Post Federal Award Requirements

Standards for Financial and Program Management

- §200.300 Statutory and national policy requirements.
- §200.301 Performance measurement.
- §200.302 Financial management.
- §200.303 Internal controls.
- §200.304 Bonds.
- §200.305 Cost sharing or matching.
- §200.306 Program income.
- §200.307 Revision of budget and program plans.

Property Standards

- §200.310 Insurance coverage.
- §200.311 Real property.
- §200.312 Federally owned and exempt property.
- §200.313 Equipment.
- §200.314 Supplies.
- §200.315 Intangible property.
- §200.316 Property trust relationship.

Procurement Standards

- §200.317 Procurements by states.
- §200.318 General procurement standards.
- §200.319 Competition.
- §200.320 Methods of procurement to be followed.
- §200.321 Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.
- §200.323 Contract cost and price.
- §200.324 Federal awarding agency or pass-through entity review.
- §200.325 Bonding requirements.

Performance and Financial Monitoring and Reporting

- §200.327 Financial reporting.
- §200.328 Monitoring and reporting program performance.
- §200.329 Reporting on real property.

Subrecipient Monitoring and Management

- §200.330 Subrecipient and contractor determinations.
- §200.331 Requirements for pass-through entities.
- §200.332 Fixed amount subawards.

Record Retention and Access

- §200.333 Retention requirements for records.
- §200.334 Requests for transfer of records.
- §200.335 Methods for collection, transmission and storage of information.
- §200.336 Access to records.
- §200.337 Restrictions on public access to records.

Remedies for Noncompliance

- §200.338 Remedies for noncompliance.
- §200.339 Termination.
- §200.341 Opportunities to object, hearings and appeals.
- §200.342 Effects of suspension and termination.

Closeout

- §200.343 Closeout

Post-Closeout Adjustments and Continuing Responsibilities

- §200.344 Post-closeout adjustments and continuing responsibilities.

Collection of Amounts Due

- §200.345 Collection of amounts due.
Subpart D – Post Award Requirements

Financial and Program Management – Examples from A-110 and the UG

• Standards for financial management systems (See C.21.(b).(1) (UG 200.302 b2), and C.21.(b).(7) (UG 200.302 b3) for example)
• Standards for determining allocability, allowability and reasonableness (C.21.(b).(6) ) (UG 200.302 b7)
• Payment (UG 200.305)
• Cost sharing or matching (C.23.) (UG 200.306) – Includes AAR language, and when unrecovered indirect costs may be used as cost sharing (C.23.(b). ) (UG 200.306 c)
• Program income (C.24.) (UG 200.307)

Revision of Budget & Program Plans

UG 200.308

• Recipients must report deviations from budget and program plans and request prior approval for … revisions UG 200.308 b
• Changes which require sponsor prior approval: UG 200.308 c
  – Change in scope UG 200.308 c1
  – Change in key person specified in the application or award document UG 200.308 c2
  – The disengagement for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator UG 200.308 c3
  – Need for additional Federal funding not specifically addressed in UG
Revision of Budget & Program Plans, cont’d.

• The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense (UG 200.308 c5)

• Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under the award. Does not apply to purchase of materials & supplies, equipment or general support services (UG 200.308 c6)

Prior Approval Guidance in the UG

• Appears 66 times

• Caution in what is allowable but requires prior approval
Federal-Wide Research Terms and Conditions

Federal Register Notice - Research Terms and Conditions to address and implement the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 CFR § 200 - October 14, 2015

Draft Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 CFR § 200

Does not include DOD terms and conditions
Duke Prior Approval Matrix

How Will this Impact NIH Grants Management?

- §75.407  Prior written approval (prior approval):
  - Within the NIH-GPS Chapter 8.1.1.2, NIH will continue it’s longstanding policy to not require prior approval to rebudget funds for any direct cost item that the cost principles identify as requiring the Federal awarding agency’s prior approval, unless the incurrence of the cost is associated with or is considered to be a change in scope. As a result, this will apply to the following provisions:
    - 75.306 Cost Sharing or Matching – The recipient may include unrecovered indirect cost as part of cost sharing or matching without prior approval.
    - 76.413 Direct Cost – Approval is granted for the recipient to direct charge the salaries of administrative and clerical staff if all conditions in 48 CFR part 75.413 are met.
    - 76.439 Equipment and other capital expenditures – Unless otherwise specified in the award, the requirement to obtain prior approval for special purpose equipment over $5,000 is waived.
How will this Impact NSF Awards?

2. Prior Approval Requirements - NSF
Unless otherwise specified in the notice of award, the Federal administrative requirements for prior agency approval summarized in 2 CFR § 200.308, and the provisions of the governing cost principles, the requirement to obtain NSF prior approval applies only to the activities and expenditures specified below.

a. Consistent with 2 CFR § 200, written prior approval from the cognizant NSF Grants and Agreements Officer is required for:
   1. Significant Project Changes
      (a) Transfer of the project effort (see Article 8. See also 2 CFR § 200.308)
      (b) Change in objective or scope (see Article 8. See also 2 CFR § 200.308)
      (c) Disengagement or change of PI/PD or co-PI/co-PD (see Article 8. See also 2 CFR § 200.308)
      (d) Change in the amount of approved cost sharing reflected on Line M of the grant budget (see Article 29)

b. Written prior approval from the cognizant NSF Program Officer is required for transfer of funds budgeted for participant support (see Article 7. See also 2 CFR § 200.308(c)(5)).

Yes, we got what we wanted...

Less prescriptive “rules”  →  Emphasis on internal controls
Subpart D-Post Award
Internal Controls

<table>
<thead>
<tr>
<th>UG Section 200.303</th>
<th>Recipients must maintain effective internal controls over federal awards</th>
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<tbody>
<tr>
<td></td>
<td>Controls should be in compliance with COSO and Green Book</td>
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<tr>
<td></td>
<td>Recipients must comply, evaluate and monitor compliance, and take action when non-compliance is identified</td>
</tr>
<tr>
<td></td>
<td>Recipients must take reasonable measures to safeguard personal data</td>
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</table>

Internal Controls

200.303, Internal Controls Non-Federal entities must -

• Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

• Comply with Federal statutes, regulations, & terms and conditions

• Evaluate and monitor compliance

• Take prompt action on audit findings

• Safeguard protected personally identifiable information
University of Wisconsin – Madison (3/22/13) • IC weaknesses and significant issues on construction project

Boston University (3/31/11) • Inadequate IC to ensure that cost share is properly identified, recorded, reported and monitored.

University of Missouri – Columbia (3/3/10) • Compliance and IC deficiencies in financial management of subaward and payroll costs.

Subpart E: Cost Principles

Subpart E—Cost Principles

Subpart E Cost Principles

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<td>200.370</td>
<td>Procurement</td>
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Uniform Guidance Communications

- Brief discussions of Uniform Guidance clarifications or elaborations on discrete topics
- Distributed online & through email
- Incorporated into training, formal communication schedule, ORA/ORS quarterly meetings, etc.
- Sample included in supplemental packet

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FYI: Uniform Guidance Communications

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  - 200.330 F&A (Indirect) Costs
  - 200.360 Charging Clerical &/Or Administrative Expenses
  - 200.XXX Compensation for Personnel Services

- UGCs
  - In revision
  - Finalized

- Sample included in supplemental packet
UG 200.474 Travel Costs

- UG 200.474 Travel costs
  - Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the institution in its regular operations as the result of the institution’s written travel policy.

- UG (c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:
  (i) The costs are a direct result of the individual’s travel for the Federal award;
  (ii) The costs are consistent with the non-Federal entity’s documented travel policy for all entity travel; and
  (iii) Are only temporary during the travel period.

- (2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency.

Airfare

- (d) Commercial air travel. (1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:
  - (i) Require circuitous routing;
  - (ii) Require travel during unreasonable hours;
  - (iii) Excessively prolong travel;
  - (iv) Result in additional costs that would offset the transportation savings; or
  - (v) Offer accommodations not reasonably adequate for the traveler's medical needs.
Travel Costs

- UG 200.474

  Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the institution in its regular operations as the result of the institution’s written travel policy.

Uniform Guidance Communication #12

- Duke travel policy pertains for airfare costs
- Change fees up to the amount of the lowest unrestricted airfare cost are allowed
- Change must be for unavoidable circumstances, and not for convenience
Clerical and Administrative Personnel
(Formerly F.6.b.)

- (UG 200.413) The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:
  - (1) Administrative or clerical services are integral to a project or activity;
  - (2) Individuals involved can be specifically identified with the project or activity;
  - (3) Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency; and
  - (4) The costs are not also recovered as indirect costs.

Uniform Guidance Communication
#2.1

- Document in proposal budget, no CAS form required
- If not in proposal budget, must request agency prior approval prior to charging – contact ORA/ORS for prior approval process
- If charges have already been made, cannot be cleared internally by a CAS form
- Only exception is items were included in budget and the WBSE did accurately reflect agency approval when award was set up
Subrecipient Monitoring and Management

- Section 200.330 explains the roles of subrecipients and contractors so that the non-Federal entity can determine the relationship and the applicable requirements.

- A non-Federal entity provides a subaward to a subrecipient for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship between the non-Federal entity and the subrecipient.

- A non-Federal entity provides a contract to a contractor for the purpose of obtaining goods and services for the non-Federal entity’s own use and creates a procurement relationship between the non-Federal entity and the contractor.

- What the document is called does not matter; the relationship is the basis for determining which requirements are applicable.

Subrecipient and Contractor Determinations

- 200.330 Pass through entities must make case-by-case determinations whether each agreement it makes for disbursement of Federal program funds casts the party receiving the funds in the role of subrecipient or contractor.
Subrecipients

• Subrecipients:
  – Carrying out a portion of a Federal award and creates a Federal assistance relationship
  – Entity is eligible to receive Federal assistance
  – Has its performance measured in relation to whether objectives of a Federal program were met
  – Has responsibility for programmatic decision making
  – Is responsible for adherence to applicable Federal program requirements specified in the award
  – Uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods and services for the benefit of a pass-through entity

Contractors

• Contractors:
  – A contract will be executed for the purpose of obtaining goods and services for the non-Federal entity’s own use and creates a procurement relationship with the contractor
  – Provides goods and services within normal business operations
  – Provides similar goods and services to many different purchasers
  – Normally operates in a competitive environment
  – Provides goods and services that are ancillary to the operation of the Federal program
  – Are not subject to compliance requirements of the Federal program as a result of the agreement
Subrecipient Risk Assessment

- 200.331 (b) Evaluate each subrecipient's risk of non-compliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring which may include consideration of such factors as:
  - Experience with the same or similar awards
  - Results of previous audits
  - Whether subrecipient has new personnel or new or substantially changed systems
  - Extent and result of federal awarding agency monitoring of the subrecipient
  - Pass-through are entities required to use Federal Audit Clearinghouse to verify audit reports (200.512)

- Depending on the risk assessment:
  - Provide subrecipients with training and technical assistance
  - Perform on-site reviews
  - Arrange for agreed-upon-procedure engagements (requires prior approval, 200.425).

Subrecipient Monitoring and Management

200.331, Requirements for pass-through entities, includes audit responsibilities that were in A-133

- The pass-through entity must:
  - Put specific information in the subaward, including indirect cost rate
  - Do a risk assessment to determine appropriate subrecipient monitoring AND must monitor subrecipients
  - Consider if specific subaward conditions are needed
  - Verify subrecipients have audits in accordance with Subpart F
  - Make any necessary adjustment to the pass-through entity’s records based on reviews and audits of subrecipients
  - Consider actions to address subrecipient noncompliance

NIH Audit Work Plan for 2016 focuses on how well institutions are performing these duties
Subrecipient vs. Contractor Checklist

Uniform Guidance
Communication 11.0

Computers

• Listed as supplies in the UG
• Do not have to be solely allocated to the sponsored project (Can have other uses)
• If Buy@Duke is used for purchase, no CAS form required

• May be an auditor issue if not well documented
Computers and Computing Devices: UGC #3.0

- Duke University has adopted the policy that devices whose primary purpose is voice communication, and related functions such as texting and checking email correspondence do not fall into allowable charges to federally sponsored projects. Exceptional circumstances may be allowed, but only with acceptable documentation of need specific to project goals, approved by the appropriate business manager.

Other Important UGC Items

- UGC #13 – Participant Support Costs
- UGC#9.0 – Research and Technical Staff
- UGC#4.0 – F&A for Subrecipients without a Formally Negotiated Rate
- UGC#7.0 – Travel Visas
- UGC#5.0 – PI Disengagement
- UGC#14.0 – Publication and Printing Costs
Helpful links from the OMB website:

- [OMB Policy Statements: Uniform Grant Guidance](#)
- [Uniform Guidance Crosswalk from Existing Guidance to Final Guidance](#)
- [Uniform Guidance Crosswalk from Final Guidance to Existing Guidance](#)
- [Audit Requirements Comparison Chart](#) -- OMB Circular A-133 and Proposed Uniform Guidance Subpart F
- [Definitions Comparison Chart](#)
- [Administrative Requirements Comparison Chart](#)
- [http://spa.columbia.edu/uniform-guidance](http://spa.columbia.edu/uniform-guidance)
Resources

- Harvard
  http://osp.fad.harvard.edu/content/new-omb-uniform-guidance
- Columbia
  http://spa.columbia.edu/uniform-guidance
- Michigan State
  https://www.cga.msu.edu/PL/Portal/DocumentViewer.aspx?cga=aQ8kAD0AMgA5ADkA
- University of Minnesota
  http://www.ospa.umn.edu/documents/UG.html
- University of Wisconsin
  https://www.rsp.wisc.edu/UG/

FDP Resources regarding Implementation

- RTC:
  http://sites.nationalacademies.org/cs/groups/pgasite/documents/webpage/pga_153344.pdf
- NIH:
  http://sites.nationalacademies.org/cs/groups/pgasite/documents/webpage/pga_153350.pdf
- NSF:
  http://sites.nationalacademies.org/cs/groups/pgasite/documents/webpage/pga_153352.pdf
Good Luck!!!!