Impact of the Office of Management and Budget (OMB) Uniform Guidance (UG)

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Uniform Guidance Implementation

Federal Regulations in Effect through December 25, 2014

OMB Circular A-110: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (09/30/1999)
OMB Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations (06/26/2007)
OMB Circular A-87: Cost Principles for State, Local, and Indian Tribal Government (05/10/2004)
OMB Circular A-102: Grants and Cooperative Agreements with State and Local Governments (10/07/1994)
OMB Circular A-122: Cost Principles for Non-Profit Organizations (05/10/2004)
OMB Circular A-89: Catalog of Federal Domestic Assistance (08/17/1984)

Federal Regulation in Effect December 26, 2014:

Uniform Guidance

2 CFR 200

- Uniform implementation date for all federal agencies
- Date applies to all requirements except audit. The audit regulations become effective the first fiscal year after implementation, so FY16 given our July-June fiscal year.
- Federal agencies submitted their implementation plans to OMB June 2014. Except for NSF, we will not hear more on agency implementation until December 26, 2014.
Are We There Yet???

- UG goes live on December 26, 2014
- OMB and the Council on Financial Assistance Reform (COFAR) at the helm
- Important FAQs released on August 29th. Webcast available at https://cfo.gov/cofar/
- Ongoing Council on Governmental Regulations (COGR) engagement with COFAR and other Stakeholders (States, Nonprofits, Audit, etc.)
- www.cogr.edu ... COGR Guide V2; Sept. 17 link
Approach to Issues – Today

**Procurement**

Compare existing procurement procedures to new federal standards. Try to coordinate with other Virginia public universities. 12 month grace period for implementation.

**Subrecipient Risk Assessment & Monitoring**


**Closeouts**

Approach to Issues – Today

**Fixed Amount Awards**
Fixed price subawards limited to Simplified Acquisition Threshold (currently $150,000). Prior Federal Agency approval required. How to handle current fixed price clinical trial, subaward situations?

**Admin / Clerical**
Salaries of admin/clerical normally treated as indirect cost. Direct charging only if integral, allocable, justified in budget with agency approval, and not also recovered as indirect cost.

**Compensation - Fringe Benefits**
Monitor for expected OMB clarification with technical correction. Track instances when unused terminal leave is direct charged to a grant.

VCU unused terminal leave sometimes direct charged to grants.
Approach to Issues – Today

Modified Total Direct Costs (MTDC)

“Participant support costs” to be added as to exclusions list. Monitor for clarification that “subcontractor” refers to subrecipient relationships.

Subrecipient vs Contractor Determination

No change to characteristics of a subrecipient vs. contractor (vendor). Substance of the relationship more important than form of the agreement; must document.

Supplies / Computers

Direct charge of computing devices allowable, must be “essential and allocable”, but not necessarily solely dedicated to federal award.
Approach to Issues – Today

**Effort Reporting**
Continue to use current Effort Reporting system? Monitor outcome of FDP demonstrations on payroll “certification” vs “confirmation”.

**Cost Share**
Federal Agency must have OMB approval and publish in program announcement.

**Indirect Cost Rate**
Federal Agency / Pass Through Entity must honor negotiated rates unless required by law or approved by agency head. “De minimis” rate of 10% MTDC when no rate agreement.
Approach to Issues – Today

- **Audit Threshold**: Disclosure Statement Threshold increasing from $25M to $50M.
- **Single Audit Requirement**: Threshold in FY expenditures in Federal awards increasing from $500K to $750K.
Procurement

• 5 methods of Procurement
• Micro – Under $3K.
• Small - $3k - $150K.
• Sealed – Greater than $150K – Construction projects – Price is the major factor.
• Competitive – Greater than $150K. Can be either FP or CR. RFP with evaluation methods.
• Sole Source – Unique. Public emergency, authorized by agency – no competition.
## Procurement
### GMU and VCU review

<table>
<thead>
<tr>
<th>Type</th>
<th>UG</th>
<th>GMU</th>
<th>VCU</th>
<th>Comment</th>
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<tbody>
<tr>
<td>Micro</td>
<td>Under $3,000</td>
<td>Under $5,000</td>
<td>Under $10,000</td>
<td>Federal dollar threshold is lower. Mason might have to lower threshold on Federal grants to $3,000. VCU procurement to review further.</td>
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<tr>
<td>Small</td>
<td>$3,000-$150,000</td>
<td>Under $50,000</td>
<td>Under $50,000</td>
<td>Mason has stricter requirements above $50,000, but Federal requirement have a lower bottom threshold. Mason might have to modify dollar threshold on Federal grants to $3,000. VCU procurement to review further.</td>
</tr>
<tr>
<td>Sealed</td>
<td>Sealed Bidding Process</td>
<td>IFB (Invitation for Bid)</td>
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## Procurement

GMU and VCU review continued

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Charging Administrative/Clerical and Programmatic Salary Costs

- UG 200.413 (c) describes that "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:"
  - a. Administrative or clerical services are integral to a project or activity
    - Integral means services are essential, vital, or fundamental to the project or activity ("review of expenditure reports", for example, would not meet definition of integral or qualify for direct cost charging)
  - b. Individuals involved can be specifically identified with the project or activity
    - No "TBD", must be named individuals
  - c. Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency
    - Explicit justification must be included in the proposal's budget justification
  - d. The costs are not also recovered as indirect costs.
Computing Devices

• Computing devices may be direct charged to the project or activity if the machines are essential* and allocable to the project

• Some considerations:
  - Are they necessary to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information.
  - Does project not have reasonable access to other devices or equipment that can achieve the same purpose; devices may not be purchased for reasons of convenience or preference.
F&A on Subawards

- IHEs and all of its subrecipients must use a federal program’s rate if it has a published statutory F&A cap.
- For all other federal programs, the subrecipient’s federally negotiated F&A rate must be used if there is one.
- If there is no negotiated F&A rate, a 10% de minimus F&A rate must be used. PIs may not negotiate or agree to lower rates with their subrecipients.
- No change to IHE rate agreements allowing for cost recovery on the first $25K of each subaward.
Uniform Guidance Implementation at VCU

- Located on OSP Forms page under “Proposal Development” header.

When federal domestic assistance funds are involved...

- Use with sponsors or subrecipients who may be unfamiliar with changing federal guidance;
- Use with sponsors who may not have honored negotiated rates in the past.
Fixed Amount Subawards

- Agency prior approval is required to enter into a fixed price/rate subaward and the total value of each fixed price/rate subaward may not exceed $150K.
- This will most commonly be used for clinical trial site agreements, foreign subrecipients, and small businesses.
- General research collaborations are not likely to be issued as fixed price.
- To expedite agency approval, PIs/departments should add a justification statement to proposals or RPPR (progress reports) explicitly requesting a fixed amount subaward. No statement is needed for subawardees above the simplified acquisition threshold ($150K).
Fixed Amount Subawards cont.

- Sample Justification Statement:

  “The subaward to [Name the subrecipient here] documented in this proposal meets the criteria described in Subpart C- 200.201(b) and [name of pass-through entity] will consider this subaward approved if an award is made and no contrary guidance from the agency is included in the award notice.”
Other Significant Changes in the UG that may impact IHEs

• An IHE may apply for a one-time extension of a current negotiated indirect cost rate for a period of up to 4 years.
• One extension per negotiation cycle.
• Indirect rates negotiated prior to the implementation of the Uniformed Guidance are eligible for an extension.
• The intent of allowing for an extension is to minimize the administrative burden. As such, required documentation to support an extension is to be kept to a minimum.
• Per COGR – While the guidance is that a request must be submitted 60 days prior to the due date of the next proposal - file/ask/discuss with your cognizant agency sooner rather than later.
Other Significant Changes in the UG that may impact IHEs

• Utility Cost Adjustment (UCA) - 2 CFR Part 200 Appendix III – Opportunity to increase the Organized Research rate.

• UCA is open to all schools – Historically only 65 schools have had a UCA added to their F&A rate

• Capped at 1.3 points – can be less.

• Specific requirements for the calculation and submission. Work with your outside consultants, who have experience with UCA, as part of the F&A submission.
Going Forward.....

• Technical Corrections to the UG and Agency Plans in the Federal Register are expected sometime before December 26th.

• Leverage many in your Institution Plan for training and roll-out: PIs, all levels of Admin, IT, experts from Purchasing, Payroll, etc.

• Pay close attention to material, advice, etc. from your professional associations and other trusted sources (FOCUS, COGR, NCURA, NACUBO, VA-SRA, SECA, etc.).
Advice to University Constituents
Going Forward.....

• Attend Training-Learn what is the same and what is different.
• Monitor List serves for additional updates.
• Disseminate information to your PIs.
• Process final project expenses and corrections timely. (Federal agencies have already initiated stricter enforcement of 90 day close-out/final invoice federal requirement.)
• Use current negotiated F&A rates when preparing proposals that include federal flow through with a start date on or after December 26, 2014.
Still to be Addressed.....

• How active will OMB be in ensuring consistency of the Uniform Guidance across all agencies.
• Internal Controls – Must versus Should
• Communication to the Research Faculty and Staff.
Available Resources


• Council on Governmental Relations (COGR) website [http://www.cogr.edu/](http://www.cogr.edu/) hosts publications and meeting presentations by COFAR members and Federal agency representatives.
Available Resources


- Other Fiscal Officer professional organization meetings and websites such as FOCUS, NCURA, NACUBO, VA-SRA, SECA, etc.
• Questions???