UNH Guide to OMB Uniform Guidance

The White House Office of Management and Budget issued new guidance effective as of December 26, 2014 designed to streamline and simplify the policy framework for grants and other types of agreements issued by the federal government.

Under Title 2 of the Code of Federal Regulations (CFR), this new “Uniform Guidance” combines and replaces eight federal circulars, three of which previously governed the cost principles (A-21), administrative requirements (A-110) and audit obligations (A-133) governing the University’s federal contract and grant activities.

The following reference guide highlights selected items of the Uniform Guidance that impact all federal proposals submitted by and new awards made to the University on or after December 26, 2014.

Note: According to the guidance found in the Frequently Asked Questions (FAQs) provided by the Council on Financial Assistance Reform (COFAR) issued on December 26, 2014, federal agencies also have the option of applying the Uniform Guidance to existing awards when issuing funding increments on or after December 26, 2014. (See FAQ 200.110-5.) If the federal sponsor chooses not to apply the Uniform Guidance at that time, the existing award will continue to be administered under the original federal award’s terms and conditions.

Allowable Costs

For any cost to be allowable under a federal award, it must:

1. Be necessary and reasonable for the performance of the award;
2. Be allocable (i.e. assigned/apportioned) to the sponsored award under the federal principles and methods;
3. Be given consistent treatment with policies and procedures that apply uniformly to both federally-financed and University activities; and,
4. Conform to any limitations or exclusions included in the terms and conditions of the award.

Costs charged to a federal award fall into two categories—“Direct Costs” and “Facilities and Administration Costs.” Direct costs are those costs that can be identified specifically with a particular sponsored project with a high degree of accuracy. In contrast, facilities and administrative (F&A) costs (also known as “indirect costs”) are those costs, such as building operations and maintenance, administrative personnel and systems, and other similar costs, that benefit many activities, not just one sponsored project. The University is required to treat costs incurred for the same purpose in like circumstances consistently, as either a direct or indirect cost. For example, a principal investigator (PI) cannot charge the cost of electricity to run his or her lab to federal award because this is considered a part of the University’s indirect cost (F&A) rate.
This distinction sometimes can be confusing and even appear contrary to the purpose and needs of a sponsored project. For this reason, the Uniform Guidance now offers some flexibility in how particular costs may be treated as long as certain criteria are met. The following section provides an overview of several important changes.

Changes in Allowable Costs

**Administrative and Clerical Salaries**

Under A-21, the salaries of administrative and clerical staff could only be charged to a federal project if the federal project met the criteria of a “Major Project.” Under the Uniform Guidance (200.413) these costs now can be included as part of the proposal budget and charged to the federal award 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.

If these criteria can be met, at the proposal stage the PI must provide a budget justification that explains why administrative/clerical services are essential, i.e., indispensable, for the success of the project and above and beyond what is typically provided within the PI’s department/unit. The staff member’s effort should reflect this type of involvement, e.g., at least 10% over one budget year. It will be up to the federal sponsor to determine if this explanation is persuasive.

Post award: If these costs were not described in the proposal (as specified above) PIs should not charge these costs until federal sponsor approval has been obtained through Research Administration. Administrative/clerical staff members who have project effort charged to a federally funded project must report/certify this effort in the campus Effort Reporting System.

Note: Administrative activities such as financial reconciliations, general office work, and proposal preparation are recovered through F&A charges and time devoted to these activities should not be charged to the federal project fund. However, programmatic salary costs related to protocol development and maintenance, managing substances/chemicals, managing and securing project-specific data and coordination of research subjects are allowable direct costs when they are contributing and directly related to work under an agreement. Programmatic costs may be direct charged and are not subject to the prior approval requirements necessary for administrative and clerical costs.
Computing Devices (less than $5,000)

Under the Uniform Guidance (200.453) computing devices under $5,000, which are classified as materials and supplies (not equipment), now may be included as a direct cost in the proposal budget if the devices will be essential and allocable, but not necessarily solely dedicated, to the performance of the award.

The PI must provide a budget justification in the proposal that explains why the device/s is necessary—not just needed for convenience or personal preference—for the success of the project. Acceptable reasons include:

- To acquire, store, analyze, process, and publish data and other information electronically
- To acquire accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information

The cost of computing devices that meet the above requirements may be charged to one award or may be allocated to several awards. The devices should be itemized in the proposal budget.

Post Award: For audit purposes the PI also will be responsible for ensuring that the device is “allocable” to the sponsored project. **PIs and Business Service Centers (BSCs) should maintain documentation that describes how the computing device meets this requirement.**

Participant Support Costs

In the past, “participant support costs” was a budget line item normally found only in NSF-funded projects. Under the Uniform Guidance (200.456) other federal sponsors also may allow PIs to budget and charge for participant support costs. Participant Support Costs include: stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects. Participant support costs are not routinely allowed on research projects but can be charged if the project includes an education or outreach component and the federal agency approves such costs. Please note: Human subject payments are not considered participant support costs.

These costs must be explicitly listed in the proposal budget or approved by the funding agency (through Sponsored Program Administration (SPA) after the award has been made. Participant support costs should be excluded from the Modified Total Direct Cost (MDTC) when calculating Facilities & Administration (F&A) costs when the University’s federally negotiated F&A rate is applied.

Prior Approvals: Pre-award

The Uniform Guidance does allow PIs more flexibility, but this flexibility is contingent upon prior federal agency approval of some costs. At this juncture, items requiring prior federal sponsor approval **must specifically be requested in the proposal budget**
and explained in the budget justification. If the proposal is funded, sponsor approval may be inferred unless the federal sponsor imposes additional requirements. After an award has been issued, if the PI wants to add a cost that requires prior federal agency approval, it will be necessary for the PI to work through their SPA Grant and Contract Administrator (GCA) to obtain this approval before charging the cost to the federal project.

The Uniform Guidance specifically requires that the University obtain prior written approval for the following:

**F&A as Cost Sharing**

Under the Uniform Guidance (200.306), voluntary committed cost sharing should not be expected by a federal sponsor or used as a factor during the merit review of applications or proposals, but may be considered if it is both (a) in accordance with federal awarding agency regulations and (b) specified in a notice of funding opportunity.

If cost sharing is mandatory, under the Uniform Guidance (200.306b) “unrecovered” F&A on the direct costs charged to the sponsor as well as the “computed” F&A on the direct costs contributed by the University, may be included as part of cost sharing or matching only with the prior approval of the federal awarding agency.

Therefore, when cost sharing or matching is compulsory (described as mandatory in the sponsor’s application guidelines), and the PI plans to use unrecovered and/or computed F&A to meet this requirement, the PI will need to include a statement in the budget justification of the proposal that explicitly states that unrecovered and/or computed F&A is being used to offset the cost-share component of the award. The sponsor may or may not view this as acceptable cost sharing, so PIs are encouraged to discuss options for cost sharing with one of the sponsor’s program officers before proposal submission.

**Fixed Amount Subagreements**

A “fixed amount” subagreement is typically used to obtain specific deliverables from a subrecipient for a preset amount of funding. Accountability is based primarily on performance and results. Under the new Uniform Guidance (200.332), the University must stay at or below the Simplified Acquisition Threshold (currently set to $150,000) when issuing a fixed amount subagreement. Moreover, before issuing a fixed amount subagreement (of any amount), the University must obtain prior approval from the federal sponsor. Note: The University may not issue a fixed amount subaward if cost sharing is required by the federal sponsor.

PIs that intend to issue a fixed amount subagreement under a federal award must describe and justify the need for this type of transaction in the proposal. The federal sponsor will determine if this explanation is sufficient.

Note: 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. Each subaward must (a) have the prior approval of the federal sponsor, (b) have its own distinct statement of work and (c) be priced for that work and deliverables. The funding
limit for each subaward must be at or below the Simplified Acquisition Threshold ($150,000), and standard University procedures for recovering F&A will apply to each subaward.

If a University PI needs to increase a fixed-price subaward above the threshold ($150,000), the PI will need to work through their SPA GCA to obtain guidance from the federal awarding agency

**Visa/Recruiting Costs**

The Uniform Guidance allows visas to be charged to a federal award as part of the cost of recruiting individuals who will receive salary from the federal award. Short-term, non-immigration visa costs also are allowed for a specific period and purpose as direct costs on federal awards if these costs are critical and necessary and clearly identified as directly connected to the work performed on the federal award. However, since this is a "recruiting" cost, only the initial visa cost for each individual is allowable. J1 and H1B visas are for a specific period and purpose; therefore, these visa types are generally allowable if the specific conditions above are met. See 200.463.

The PI should provide a justification in the proposal explaining how the visa costs are critical and necessary for the conduct of the project. If the PI wishes to re-budget for such costs after an award has been made, the PI will need to work through their SPA GCA to obtain prior federal sponsor approval.

**Entertainment Costs**

Under the Uniform Guidance costs of entertainment, including amusement, diversion, and social activities and any associated costs are allowable for a programmatic purpose. (See 200.438.) At the proposal stage PIs should clearly describe these costs in the proposal budget and provide a strong justification for these costs related to project objectives.

**Other Pre-award Requirements**

**Subrecipient vs. Contractor**

The Uniform Guidance (200.330) requires that the University make case-by-case determination as to whether a party that is receiving “pass through” federal funds is a subrecipient or a contractor. The checklist, Subrecipient and Vendor Determination Checklist should be used to determine the appropriate relationship.

Please note, the final determination of subrecipient status will be based on the subrecipient’s scope of work. A subrecipient is expected to be a true partner in carrying out the project and have a substantial role in programmatic decision making. A subrecipient’s performance is measured in relationship to the achievement of federal program objectives.
**Subrecipient without an F&A Rate**

If a federal program has a published statutory F&A cap, that rate must be used both by the University as well as any subrecipients. However, if no such cap exists, the University may charge its approved federally recognized F&A (indirect cost) rate, and the University is required, under the Uniform Guidance (200.331), to accept the approved federally recognized F&A rate negotiated between the subrecipient and the federal government.

If the subrecipient does not have such an F&A rate at the time of the University’s proposal submission, the subrecipient may estimate what its federally negotiated rate will be at the time of award and include this rate in the proposed subaward budget, or the subrecipient may request a “De Minimis” F&A rate of 10% MTDC.

“MTDC” refers to a “Modified Total Direct Cost” base for calculating F&A that includes all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first $25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward and subcontract in excess of $25,000.

PIs should advise subrecipients that have never had a federally negotiated rate that:

- The University will not negotiate an F&A rate with the subrecipient on behalf of the federal government.
- If the subrecipient charges above the De Minimis F&A rate at the proposal stage and fails to obtain a federally negotiated rate at the time of the establishment of the subaward, the De Minimis rate will be applied up until the issuance of the first subaward amendment that occurs after the subrecipient has obtained a federally negotiated rate.
- If the subrecipient charges the De Minimis F&A rate at the proposal stage, the subrecipient’s F&A recovery will be limited to the De Minimis F&A rate throughout the life of the University project.

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**Prior Approvals: Post Award**

Unanticipated events occur and changes sometimes need to be made after an award is issued. The following circumstances require that the PI work through their SPA GCA to obtain prior federal sponsor approval.

**PI Disengagement**

Under the Uniform Guidance (200.308) prior sponsor approval must be obtained from the federal agency if a PI will be “disengaged” from the project for more than three months, or if there is a 25 percent reduction in the time the PI devotes to the project.
Note: PIs should work through their SPA GCA to formally obtain this approval from the sponsor.

“Disengagement” is defined as the PI no longer assuming primary responsibility for (a) the performance of the activities for which the award is granted and/or (b) compliance with the terms and conditions of the award, including but not limited to monitoring project expenditures; oversight of subrecipient performance and use of federal flow through funds; and preparation of any technical, progress or narrative reports required by the award.

Note: Physical absence from the University campus is not automatically considered disengagement as long as the PI is able to carry out his or her PI responsibilities from a remote location.

**Budget Modifications**

Changes in sponsored project costs and needs are inevitable. PIs will need to work through their SPA GCA to obtain prior federal sponsor approval before making adjustments to any of the following cost items:

**Participant Support:** The transfer of funds budgeted for participant support costs to other categories of expense will require prior approval from the federal sponsor. This requirement previously only applied to NSF funds, but now will apply to all federal sponsors. See 200.308(c)(5).

**Program Income:** Program income means gross income earned by the University that is directly generated by a supported activity or earned as a result of the federal award during the period of performance. Program income includes but is not limited to income from fees for services performed, the use or rental or real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, and interest earned.

According to the Uniform Guidance (200.307), if the federal awarding agency does not specify in its regulations or the terms and conditions of the federal award how program income is to be used, with prior approval of the federal awarding agency obtained through SPA, program income may be added to the federal award. The program income must be used for the purposes and under the conditions of the federal award.

**Publication and Printing:** According to the Uniform Guidance (200.461) page charges for professional journal publications are allowable where:

1. The publications report work supported by the federal government; and
2. The charges are levied impartially on all items published by the journal, whether or not under a federal award.
The University may charge the federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the federal award. However, these costs must be recorded within the 90 day closeout period.

**Rebudgeting Cost Sharing:** Once cost share is offered in a federal proposal and accepted by the federal sponsor at the time of award, the pledged amount of cost share must be delivered for the purpose for which it was promised. PIs should contact their SPA GCA as early as possible if any change in the amount or purpose of the promised cost sharing is anticipated. It will be necessary to obtain the prior approval of the federal sponsor before rebudgeting. See 200.308(c)(7).

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**Other Post-Award Requirements**

**Program Performance**

The Uniform Guidance (200.328) emphasizes the requirement to ensure progress is being made on federal programs in accordance with all federal requirements. Annual reports will be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the federal awarding agency may require annual reports before the anniversary dates of multiple year federal awards. The final performance report will be due 90 calendar days after the period of performance end date.

Note: If a justified request is submitted by the PI through their SPA GCA, the federal agency may extend the due date for any performance report.

**Subawards**

**Monitoring:** It is the PI’s responsibility to monitor the performance of any subrecipient receiving funding from the PI’s federal award. (See 200.331.) Monitoring may include reviewing the subrecipient’s financial and programmatic reports and, when appropriate, evaluating the subrecipient’s completed milestones and deliverables. PIs should thoughtfully review the subrecipient’s performance in these areas before signing any invoice authorizing payment of funds to a subrecipient.

**Note:** The Uniform Guidance (200.305) requires the University to pay subrecipient invoices, for cost reimbursable subawards, within 30 days of receipt of invoice unless the PI believes the request to be improper. PIs should notify their BSC and their SPA GCA as soon as possible if a subrecipient’s performance or invoice for payment does not conform to the terms and conditions of the subaward.

**Certification:** Under the Uniform Guidance (200.201) the University must require the subrecipient of a fixed amount subaward to certify at the end of the subagreement that the project or activity was completed or that the level of effort was expended as specified in the subagreement. If the subrecipient cannot certify that the required level of activity or effort was carried out, the University must adjust the amount of the funds paid to the subrecipient.
Termination: Under the Uniform Guidance (200.339), it is the responsibility of the PI to monitor the activities of subrecipients to ensure that federal funds issued to the subrecipient are used for authorized purposes in compliance with laws, regulations, and the provisions of subagreement and that the performance goals are achieved.

The PI may terminate the subagreement in whole or in part:

- If the subrecipient fails to comply with the terms and conditions of a federal award
- For cause

This must be done with the consent of the subrecipient, in which case the University and the subrecipient must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The subrecipient also may terminate by sending the University written notification setting forth the reasons for the termination, the effective date, and, in the case of partial termination, the portion to be terminated.

Note: The PI should alert their BSC and their SPA GCA to any subrecipient performance or compliance issues as soon as possible. Notices of termination must be officially issued by SPA.

Mandatory Disclosures

Under Section 200.113 of the Uniform Guidance, the University and its subrecipients must disclose, in a timely manner, in writing to the awarding agency all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. PIs should work through SPA to make such disclosures to a federal sponsor.

Personally Identifiable Information

According to Section 200.79, the University must take reasonable measures to safeguard protected personally identifiable information (PII) and other information deemed sensitive. Protected personally identifiable information is defined as information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

Closeout

The Uniform Guidance 90 day closeout requirement (200.343) is not technically a new requirement; however, the new guidance requires the federal awarding agency to complete the closeout within one year of receipt of final reports. For more guidance on the 90 day closeout process, please see the campus’ Award Closeout Procedures at Closing Checklist.

Certification

Fiscal reports or vouchers requesting payment must include a certification, signed by an official who is authorized to legally bind the non-federal entity, which contains language
that the official may be subject to criminal, civil, or administrative prosecution for fraud, false statements, false claims or otherwise.

**Residual Supplies**

If there is a residual inventory of unused supplies exceeding $5,000 which are not needed for any other federal award, the University must retain the supplies for use on other activities or sell them. In either case, the federal government must be compensated for its share. See [200.314](#).