



## Implementation and Readiness Guide for the OMB Uniform Guidance Prepared by the Council on Governmental Relations (COGR) August 13, 2020 VERSION – EFFECTIVE NOVEMBER 12, 2020<sup>1</sup>

This Implementation and Readiness Guide for the OMB Uniform Guidance (Readiness Guide), developed by COGR, is a resource to help your institution prepare for and implement the OMB's August 13, 2020, revisions to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule – 2 CFR Chapter I, Chapter II, Part 200, et al. (i.e., the Uniform Guidance, or the UG). Note that the revised UG does not address many of the helpful clarifications included in the [OMB July 2017 FAQs](#). COGR will continue to advocate OMB on the importance of incorporating essential FAQ information into the UG.

While this Readiness Guide is intended to capture a significant number of impactful changes and overarching concepts of the August 13 revision, we strongly encourage the COGR Membership to read both OMB's comments in the [Federal Register](#) and the revisions in their entirety. OMB has provided a helpful redline document that [highlights the modifications](#) as well. This Readiness Guide **is being issued in a draft form** to enable feedback from the community. **If there are significant changes that will impact your institution, which COGR has not covered, or if you have any questions about the information contained herein, please [contact COGR staff](#).**

There are several positive changes in the new UG, including an additional 30 days to closeout awards, the "safe harbor" for subrecipient monitoring, and an increase in the small purchase threshold to \$50,000. COGR has been advocating for these changes for some time, and we are delighted to see them codified here. However, there are some challenges, including the ability for Federal funding agencies to terminate awards for other than poor performance (i.e., "for cause"), which had previously been the standard, some additional research security requirements, and a replacement for the CFDA number is coming. Details of these changes are included in the Guide.

The UG is primarily direct to Federal agencies. Therefore, OMB expects all agencies to release its guidance to the research community by November 12. It is uncertain what it will mean if an agency does not comply with the November 12 deadline. COGR continues to pursue this and other issues and will keep the membership apprised. Sign up for updates through [Performance.gov](#) (under 'Join Community') and the [COGR Listserv](#). See COGR's [Uniform Guidance Resources](#) page, including COGR letters to OMB, previous readiness guides, and other relevant information.

We've organized the Readiness Guide into the sections below. Each section includes key clauses, changes from the prior version, and points ring.

### Table of Contents

A. GENERAL TOPICS .....	2
B. RESEARCH SECURITY REQUIREMENTS.....	2
C. FUNDING ANNOUNCEMENTS, AWARD TERMS, AND PRE & POST AWAD ADMINISTRATION .....	2
D. SUBAWARDS AND SUBRECIPIENT MONITORING .....	2
E. PROCUREMENT, COST PRINCIPLES, F&A, & AUDIT.....	2

<sup>1</sup> With the exception of 200.216, .340, and .471, further discussed herein.

**A. GENERAL TOPICS**

#	Item	Summary, Points to Consider & COGR Assessment
1.	Overall readability	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• Defined terms in section §200.1 Definitions are no longer numbered and usually not capitalized in the document.</li> <li>• References to other sections in the UG or other Federal documents are referenced only by the number and no longer include the title of the section, for example:</li> </ul> <p style="text-align: center;"><b>§200.6—Auditee.</b></p> <p style="text-align: center;"><i>Auditee</i> means any non-Federal entity that expends Federal awards which must be audited under <b>Subpart F—Audit Requirements</b> of this part.</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• Both of these changes make the document more challenging to read and understand.</li> <li>• COGR recommends getting familiar with definitions.</li> <li>• The numbering has changed for several sections in the final UG. Review your institution's policies and procedures and adjust as necessary.</li> </ul>
	Effective Dates	<p>The Summary of the OMB redlined version states that the UG is effective November 12, 2020, for provisions other than §200.216 Prohibition on certain telecommunications and video services or equipment and 200.340 Termination. OMB later added that §200.471 Telecommunications and video surveillance costs also became effective on August 13, 2020<sup>2</sup>.</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• OMB expects all agencies to have implementation guidance by November 12. It is uncertain what it means if an agency does not comply.</li> <li>• The July 2017 FAQs contain necessary clarifications that must be maintained alongside the revised UG until OMB incorporates them into the relevant clauses. COGR understands that OMB and perhaps the Federal awarding agencies may be addressing the FAQs soon.</li> </ul>

<sup>2</sup> Though the Federal Register Notice doesn't specifically call out .471 as effective on August 13, OMB's September 9, 2020 Innovation Exchange Session Presentation confirms the effective date as 8/13/20 (See: <https://www.performance.gov/CAP/innovation-sessions/Innovation%20Exchange%20%20CFR%20Revisions.pdf>, pg.14)

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>The uses of "must" and "should"</b></p>	<p>Section §200.101(b)(1) Applicability clarifies that "Throughout 2 CFR part 200 when the word "must" is used it indicates a requirement. Whereas, use of the word "should" or "may" indicates a best practice or recommended approach rather than a requirement and permits discretion."</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• Closely review the use of "should" and "must" in each section of the UG to understand the requirements and potential impact, especially when developing internal policies and procedures.</li> <li>• While "should" indicates a best practice, this may not be the audit community's view. If this issue arises in an audit situation, institutions should reference this section and the preamble (see P. 13, section §200.301 of the <a href="#">redlined</a> version).</li> </ul>
	<p><b>Part 25 – SAM registration and the new Unique Entity Identifier</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• SAM registration numbers will be replaced with the new Unique Entity Identifier (UEI), and current SAM registrants will receive a UEI automatically in the future (see the published timeline).</li> <li>• DUNS numbers will be phased out for new registrations. SAM will retain DUNS numbers for historical purposes for those entities that already have them.</li> <li>• Subrecipients are not required to complete full SAM registration to obtain a UEI, but they must have a UEI (§25.300(a)). At this point, it's not clear what the difference is between these two types of registration.</li> <li>• All recipients and subrecipients of Federal funds require a SAM or UEI (Appendix AIB) unless a Federal awarding agency grants an exception under a condition as described under §25.110((a)(2)).</li> <li>• A new provision requires registrants to provide its immediate and highest-level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years Part 25, Appendix AIA.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• COGR is watching closely; however, experience dictates these types of changes, if not done thoughtfully, can cause significant disruption in grants administration. COGR plans to learn more about the implementation of the UEI.</li> </ul> <p><i>NB. This new top-level ownership information may help institutions in their due diligence efforts and reporting under the revised <a href="#">Department of Education, Higher Education Act, Section 117 reporting of international funds.</a></i></p>
	<p><b>Part 170 – Reporting Subaward And Executive Compensation Information</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• This section's revisions reinforce the need for pass-through entities (PTEs) to report subawards under the Federal Funding Accountability and Transparency Act (FFATA).</li> <li>• The reporting threshold for subawards has increased from \$25,000 to \$30,000.</li> <li>• Some definitions are revised to include foreign subrecipients, though reporting foreign entities is already required under FFATA.</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>Institutions may want to review their internal reporting triggers to adjust to the new threshold.</li> </ul>
	<p><b>Move from CFDA to Assistance listing</b></p>	<p>The definitions "Catalog for Federal Domestic Assistance (CFDA) number" and "CFDA program title" have been replaced with the terms "Assistance listing number" and "Assistance listing program title." See Definitions of Assistance listing numbers and Federal program in §200.1. Agencies are required to include the Assisting listing in program announcements and awards.</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>COGR is watching closely; however, experience dictates these types of changes, if not done thoughtfully, can cause significant disruption in grants administration. COGR plans to learn more about how these changes will be implemented.</li> <li>Institutions should review their internal systems and identify where changes are needed to accommodate this change.</li> </ul>
	<p><b>Internal Controls</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>The definition of "internal controls" has been revised to incorporate OMB Circular A-123, which was recently modified to enhance further Federal agency responsibility of enterprise risk management and internal control.</li> <li>The definition of "internal control over compliance requirements for Federal awards" has been deleted.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>Since A-123 is directed to Federal agencies, COGR is uncertain how these new requirements could flow down to grantees.</li> <li>IHEs should continue to use the Standards for Internal Control in the Federal Government, otherwise known as the General Accountability (GAO) "Green Book", as a standard for internal control guidance created by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).</li> </ul>
	<p><b>§200.102 Exceptions</b></p>	<p>OMB has eliminated agencies having to post any policy exceptions to the OMB website and now encourages agencies to request exceptions to "certain provisions of 2 CFR 200 in support of innovative program designs that apply a risk-based, data-driven framework to alleviate select compliance requirements and <b>hold recipients accountable for good performance.</b>" (pg. 7)</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>The OMB website, initially required under 2 CFR 200 in 2014, was never implemented. While this is a disappointment, we encourage institutions to note agency exceptions to the UG and contact COGR when an agency inappropriately implements an exception.</li> </ul>
	<p><b>§200.105 Effect on other issuances</b></p>	<p>Agencies may impose legally binding requirements on recipients only through the notice and public comment process through an approved agency process, including as authorized by this part, other statutes or regulations, or incorporated into the terms of a Federal award.</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>This is a helpful addition. Agencies must use the formal rulemaking process, rather than FAQs or agency guidance to implement policy changes.</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>§200.300 Statutory And national policy requirements</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• The UG indicates the Federal award must now be managed and administered in a manner to ensure expenditures and associated programs are implemented in "full accordance with the Constitution, Federal Law, and public policy requirements" and references those protecting free speech and religious liberty.</li> <li>• The changes to §200.300 are also referenced in §200.303 Internal Controls, §200.339 Remedies for Noncompliance, §200.340 Termination, and §200.341 Notification of Termination Requirement. This clause must be flowed down to subrecipients.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• COGR finds this requirement problematic and noted this in the <a href="#">COGR comment letter</a> on March 23, 2020. While OMB did not respond to COGR's concern, we will consider approaching OMB as it relates to subawards to foreign entities and the practicality of applying this requirement to foreign entities.</li> </ul>

**B. RESEARCH SECURITY REQUIREMENTS**

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>§200.216 Prohibition on certain telecommunications and video surveillance services or equipment; and §200.471 Telecommunications and video surveillance costs</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• §200.216 implements Public Law 115-232 Section 889 of the FY2019 National Defense Authorization Act (NDAA), prohibiting Federal funds from being used to contract with or procure goods and services from certain foreign entities due to national security concerns.</li> <li>• §200.216(3) lists Huawei Technologies Company and ZTE Corporation and their subsidiaries and affiliates. 200.216(3)(i) incorporates video surveillance and telecom equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).</li> <li>• §200.216(iii) states that the list may be expanded to include other foreign makers of telecom or video surveillance equipment.</li> <li>• This clause became effective on the date of publication, August 13, 2020, and applies to all recipients and subrecipients. These requirements may particularly affect US Institutions with foreign operations or awards in foreign countries where Huawei telecom equipment is widespread.</li> <li>• Also, §200.471 provides a new definition for telecommunications and video surveillance costs and describes the circumstances in which they are unallowable (equipment or services related in §200.216).</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• Although the contract and grant obligations under the 2019 NDAA section 889 are similar, they are not the same. See COGR's letter to OMB dated 9/24/2020 for additional details. COGR understands the importance of complying with the</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<p>NDAAs, but because the language in the FAR and the UG is inconsistent, the UG described the prohibition for grants inconsistently, which creates confusion in implementation. COGR has apprised OMB of the details of this issue and will keep our membership informed.</p> <ul style="list-style-type: none"> <li>• Agencies are beginning to implement this new requirement; we see inconsistency there as well.</li> <li>• COGR has asked OMB to clarify that the §200.216 prohibition applies to purchase, or other expenses associated with the covered equipment, services, or systems but does not prohibit award recipients from entering into contracts or subawards with users of such equipment, services, or systems.</li> </ul>
	<p><b>Part 183 – Never Contract With The Enemy</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• This new provision applies to awards over \$50,000 where any part of the award may be performed outside the US and US territories, and "in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities. It does not apply to the authorized intelligence or law enforcement activities of the Federal Government". This requirement dates back to the FY2015 National Defense Authorization Act and is implemented here for grants and cooperative agreements.</li> <li>• Per §183.15, when the requirement applies, Federal awarding agencies must check the current list of prohibited and restricted parties or entities in SAM and exercise due diligence to ensure that Federal funds are not provided directly or indirectly to covered persons or entities.</li> <li>• This requirement applies when subcontracting funds outside the US and its territories. Recipients are required to exercise the same due diligence as described above (§183.25).</li> <li>• Additional audit requirements apply. (Appendix A, Term 2).</li> <li>• See the implementing clause §200.215.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• It is unclear how a basic or applied research award would meet the applicability criteria.</li> <li>• COGR continues to pursue this issue and will keep the membership apprised.</li> </ul>

**C. FUNDING ANNOUNCEMENTS, AWARD TERMS, AND PRE & POST AWARD ADMINISTRATION**

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>§200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• The title of this section now includes "fixed amount awards." The additional language below, in quotes, was added to §200.201(b)(1) to state that Federal agencies and pass-through entities may issue fixed amount awards if the project scope "has measurable goals and objectives" and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award based on a reasonable estimate of actual costs.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment</b></p> <ul style="list-style-type: none"> <li>• COGR has advocated for fixed amount awards since 2014 as an opportunity to reduce burden.</li> <li>• Fixed amount projects must be costed per §200.201. However, the costs incurred during the performance of the award may not be auditable against the Cost Principles section of the UG. It remains unclear what audit mechanisms outside of the original estimate of costs will be used to assess performance.</li> <li>• Federal agencies have not made widespread use of fixed amount awards, though they are being encouraged to do so here as part of the President's Management Agenda. As a potential strategy to measure burden and resolve questions about the benefits and risks to the community, COGR suggests an FDP pilot whereby peer institutions would issue fixed amount subawards to each other. Such a pilot could initially focus on modular awards.</li> </ul>
	<p><b>Program design, performance goals, and reporting, including §200.202 Program planning and design; and §200.203 Requirement to provide public notice of Federal financial assistance programs</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• Throughout these sections, OMB directs Federal funding agencies to develop funding programs that align with the Federal agency's goals and metrics, stating in §200.202 that Federal programs "must also be designed to align with the Program Management Improvement Accountability Act (Pub. L. 114-264).</li> <li>• §200.202 states that programs "must include clear goals and objectives that facilitate the delivery of meaningful results consistent with the Federal authorizing legislation of the program".</li> <li>• §200.204(c)(7) states that new awards must include the award's relevant terms and conditions, including any exceptions to the agency's standard terms and conditions. This is a positive change.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• In implementing this revised UG, Federal agencies are required to develop new program requirements and metrics which may flow down to program announcements. Since the UG applies to many types of programs and stakeholders, the intended impact on basic and applied research awards is unclear.</li> <li>• Note the use of "should and "must" in this section. This language could result in stricter performance metric requirements for research and other sponsored awards. COGR will monitor this issue.</li> </ul>
	<p><b>§200.211 information contained in a federal award</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• §200.211 includes several changes to improve transparency in setting performance expectations</li> <li>• A new section §200.211(a) states that "Performance goals, indicators, targets, and baseline data must be included in the Federal award, where applicable. The Federal awarding agency must also specify how agencies will assess performance</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<p>in the terms and conditions of the Federal award, including the timing and scope of expected performance." The recipient's performance will be based upon these metrics.</p> <ul style="list-style-type: none"> <li>• New language has been added in §200.211(c)(iv), which states that new awards must include information about subsequent budget periods. However, "subsequent budget periods are subject to the availability of funds, program authority, satisfactory performance, and compliance with the terms and conditions of the Federal award."</li> <li>• Federal funding agencies and pass-through entities must make recipients aware of the termination provisions in a "clear and unambiguous manner", per §200.211(c)(v). The new termination provisions enable agencies to terminate awards for reasons other than poor performance. See §200.340 below for more information.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• Award documents will be more detailed under this revised guidance, including performance goals, indicators, targets, and baseline data. PI review and approval of performance goals or requirements by an agency will be critical during award negotiation.</li> <li>• While recipients assumed that future budgets periods were somewhat at risk, especially considering cuts in appropriations or poor performance, the newly expanded language in §200.211(c)(iv) enables agencies to pre-empt funding or terminate awards for several reasons.</li> <li>• Having exact requirements set forth by OMB in Funding Opportunity Announcements (FOAs) may substantially reduce what COGR believes are agency deviations from the UG.</li> <li>• Revised section §200.211 (c)(2) indicates the Federal awarding agency must maintain their terms and conditions on their agency's website. It's unclear how this may impact the Federal Wide Terms and Conditions.</li> </ul>
	<p><b>Performance measurement, §200.301 Performance measurement; and §200.329 Monitoring and reporting program reporting</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• §200.329(c)(1) enables recipients to have an additional 30 days to file final reports with the Federal agency, that is, up to 120 days after the end of the performance period. This is beneficial to recipients, and COGR has been advocating for this for many years.</li> <li>• Measuring awardee performance is addressed, from program design to award management. A new clause §200.301 states, "Federal awarding agencies "must measure the recipient's performance to show achievement of the program goals and objectives, share lessons learned, improve program outcomes and foster adoption of promising practices."</li> <li>• §200.301 further states that Federal agencies will determine how performance progress is measured relative to the program and, where applicable, should include performance measures or independent sources of data to measure progress.</li> <li>• A revised section §200.301(c) thankfully emphasizes "collaboration and coordination to advance data and evidence-building functions in the Federal government."</li> <li>• Section §200.329(b) preserves the concept previously included in the UG, which states that in some instances, for (e.g., discretionary research awards), relating financial data and accomplishments to performance goals and objectives may</li> </ul>



#	Item	Summary, Points to Consider & COGR Assessment
		<p>be accomplished through the requirement to submit technical performance reports. (i.e., the Research Performance Progress Report RPPR)</p> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• We are appreciative for the extension in final reporting from 90 to 120 days.</li> <li>• Note the use of "should and "must" in this section. This language could result in stricter performance metric requirements for non-research awards. COGR will monitor this issue.</li> <li>• Institutions should review their process and assumptions related to the availability of future year funding.</li> <li>• For research awards, per §200.329(b), the (RPPR) may meet the performance requirement.</li> </ul>
	<p><b>Authority to spend and pre-award costs, including new definitions of Budget period and Period of performance; §200.403 Factors affecting allowability of costs; and §200.458 Pre-award costs; and 200.461 Publication costs</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• On the positive side, the UG clarifies the point that publication costs may be charged during closeout (after the end of the formal period of performance) and changed to the final budget period according to §200.461(b)(3). It does not appear to prevent publication costs from being charged to other budget periods.</li> <li>• In other UG areas, revisions point to less flexibility in terms of spending between budget periods. Agency implementations will be important.</li> <li>• New definitions and use of the terms "budget period" and "period of performance" through the UG.</li> <li>• An important new section §200.403(h) states that "cost must be incurred during the approved budget period". Awards under §200.308(e)(3) are more flexible.</li> <li>• A new sentence has been added at the end of §200.458 that states that pre-award costs "must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency." Again, awards under §200.308(e)(3) are more flexible.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• These changes, taken together, create a stricter requirement to charge costs within a specific budget period for awards that do not fall §200.308(e)(3), the old expanded authorities.</li> <li>• Institutions should consider options for building in budget flexibilities in proposals, especially for awards that will not fall under §200.308(e)(3).</li> <li>• COGR will closely monitor the agency implementations of these changes.</li> </ul>
	<p><b>§200.340 Termination; §200.341 Notification of termination requirement; and §200.342 Opportunities to</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• The changes to §200.340 Termination are effective as of the date of publication – August 13, 2020.</li> <li>• Federal funding agencies and pass-through entities must make recipients aware of the termination provisions in a "clear and unambiguous manner", per §200.211(c)(v).</li> <li>• Termination "for clause" has been deleted from §200.340(a)(2). Previously, agencies could only terminate awards "for cause", or poor performance. This section goes on to state that awards may be terminated in whole or in part "to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities."</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>object, hearings and appeals</b></p>	<ul style="list-style-type: none"> <li>• Per §200.341(b), an award may be terminated for a material failure to comply with the U. S. Constitution. See more about Statutory and national policy issues in §200.300, above.</li> <li>• §200.342 provides recipients entities the opportunity to object and challenge any such termination by a Federal agency if the Federal award is terminated for the non-Federal entity's material failure to comply with the US Constitution, Federal statutes, regulations, or terms and conditions of the Federal award.</li> <li>• § 200.343(a) provides that costs resulting from financial obligations, which were properly incurred before the effective date of suspension or termination, are not in anticipation of the termination; and are therefore? allowable.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• The new termination provisions are one of the most significant issues in the revised UG. These changes allow agencies to terminate awards for reasons that the awardee has no control over, regardless of how rigorously they comply with award requirements, fundamentally shifting the nature of assistance awards. It is unclear how the Federal funding agencies will implement these new clauses.</li> <li>• The UG termination clauses were written to support termination for cause, that is, poor performance. They have not been revised to accommodate the additional reasons for termination included in these revisions. For example, in cases where a project is terminated under §200.340(a)(2), "if a project no longer effectuates the program goals or agency priorities", per §200.340(a)(2), the recipient is not afforded additional costs related to an orderly wind-down of the project.</li> <li>• COGR has significant concerns with these changes and will continue to engage with OMB as appropriate.</li> </ul>
	<p><b>§200.344 Closeout; and §200.345 Post-closeout adjustments and continuing responsibilities</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• Under §200.344, recipients will have 120 calendar days after the end date of the period of performance to submit all financial, performance, and other reports as required by the terms and conditions of the Federal award.</li> <li>• Subrecipients must submit their closeout reports no later than 90 calendar days (or earlier as determined by the subaward terms and conditions) after the end date period of performance to provide all performance, financial, and other reports required under the award's terms and conditions.</li> <li>• If the recipient fails to complete the requirements, the Federal awarding agency or pass-through entity will proceed with the Federal award's closeout with the information available.</li> <li>• While the closeout out deadline for recipients has been extended by 30 days for recipients, Federal agencies still have one year from the end of the period of performance to close out the award. If the recipient is late, Federal agency closeout actions should occur with information available.</li> <li>• If awardees do not submit reports within one year, the awarding agency must report to OMB (currently FAPIIS) as a material failure to comply with the award terms and conditions.</li> <li>• §200.345(a)(3) Closeout Adjustments Note states that the closeout date of one year does not affect the Federal agency's ability to "make Financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments." Although not an issue, this has never been explicitly stated before.</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• The additional 30 days to close out an award is a positive change. While recipients may request extensions, we should expect agencies to be strict in enforcing the 120-day requirement. Because agencies have only one year (from the end of the performance period) to closeout an award, the 30 days gained by the institution are 30 days lost to the agency.</li> <li>• Subrecipients must submit their closeout reports within 90 days. Institutions will need to be diligent in enforcing this deadline to meet the Federal agency's 120-day requirement.</li> <li>• Institutions should determine how to monitor technical reporting to ensure compliance with the provision.</li> <li>• §200.329(c)(1) The deadline for non-construction performance reports is extended from 90 to 120 days.</li> <li>• COGR notes that the new language in §200.345(a)(3) could be of concern if it allows Federal awarding agencies to make financial adjustments they would not have otherwise made in the past. COGR will monitor and engage as needed.</li> </ul> <p><i>NB. Recipients are reminded to contact the granting agency when PIs have left the institution or if, for other reasons, it may not be possible to submit the report.</i></p>

**D. SUBAWARDS AND SUBRECIPIENT MONITORING**

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>Subrecipient monitoring, including §200.325 Federal awarding agency or pass-through entity review; §200.332 Requirements for pass-through entities</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• Prime awardees or pass-through entities (PTEs) may rely on the risk determination from a subrecipient's Single Audit if a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding. This is a welcome and positive change.</li> <li>• PTEs may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform the audit follow-up and make management decisions related to cross-cutting findings under Section §300.513(a)(3)(vii). These changes do not eliminate the PTE's responsibility to issue subawards that conform to agency and awards specific requirements, manage risk through on-going subrecipient monitoring, and monitor the status of the findings that are specifically related to the award. This is a welcome and positive change.</li> <li>• PTEs may accept a subrecipient's expired, previously negotiated rate and cost method to account for an indirect cost rate under §200. 405(d). This is a welcome and positive change.</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<ul style="list-style-type: none"> <li>• PTE's must include new elements in each subaward, including a budget period start and end date, the dollar amount made available under each Federal award, and the Assistance listings number at the time of disbursement.</li> <li>• Updated language clarifies the PTE sets the F&amp;A rate based on a suite of options. The negotiated rate may be based on a prior negotiated rate with a different PTE, and new data collection to substantiate the rate is at the discretion of the current PTE.</li> <li>• Several new UG provisions must be flowed down to subrecipients, including §200.215 Never Contract with the Enemy, §200.216 Prohibition on certain telecommunications and video surveillance services or equipment, §200.322 Domestic Preferences for Procurement; §200.300 pursuant to EO 13798 Promoting Free Speech and Religious Liberty and EO 13864 Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities</li> <li>• Other changes that impact subawards include the new termination provisions in §200.340 and the 90-day closeout provision for subawards.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• The new wording is beneficial and should reduce the Single Audit review burden on PTEs and subrecipients.</li> <li>• A cross-cutting audit finding is defined as an audit finding where the same underlying condition or issue affects all Federal awards (including Federal awards of more than one Federal agency or pass-through entity). This definition, while not new, is now used instead of "systemic" finding and is intended to be used in conjunction with the new permission to allow PTEs to rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform the audit follow up and make management decisions for cross-cutting findings. The obligation for the PTE to make management decisions and to perform follow-up on audit findings that "pertain only to" or are "specifically related to" the PTE's individual subaward remains.</li> <li>• However, mandatory subrecipient monitoring still includes "following up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward." This appears to be broader in terms of PTE obligations than the relief offered relative to the subrecipient's cognizant audit agency or cognizant oversight agency responsible for performing audit follow-up and making management decisions related to cross-cutting findings. COGR will follow up with OMB for clarification as to whether this is unintentional.</li> <li>• See further information about recipients F&amp;A rates below in §200.414 Indirect Costs and Appendix IV, Section C, Negotiation &amp; Approval of Indirect Cost Rates</li> </ul> <p><i>NB: The numbering of the main subrecipient clauses has changed, so institutions should review their policies and procedures to update the references.</i></p>

**E. PROCUREMENT, COST PRINCIPLES, F&A, & AUDIT**

#	Item	Summary, Points to Consider & COGR Assessment
	<p><b>Procurement requirements, including §200.318 General procurement standards; §200.319 Competition; §200.320 Method of procurement to be followed; and §200.322 Domestic Preference for procurements</b></p>	<p><b>The following is noted for these sections:</b></p> <ul style="list-style-type: none"> <li>• §200.318 (e): Competition requirements are met using strategic sourcing, shared services, or other similar procurement actions.</li> <li>• The types of procurements have been simplified:               <ol style="list-style-type: none"> <li>a) Informal (Micro-purchases, Small purchases)</li> <li>b) Formal</li> <li>c) Noncompetitive (e.g., sole source)</li> </ol> </li> <li>• §200.320 (a)(1)(iv): Entity may establish a micro-purchase threshold above the current threshold of \$10,000, up to \$50,000 without prior approval from the cognizant agency. An institution must document the annual self-certification and justification of the threshold using:               <ol style="list-style-type: none"> <li>A. Qualification as a low-risk auditee, under the criteria in §200.520 for the most recent audit;</li> <li>B. An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,</li> <li>C. For public institutions, a higher threshold consistent with state law.</li> </ol> </li> <li>• §200.320 (a)(1)(v): The cognizant agency for indirect cost must approve a micro-purchase threshold that exceeds \$50,000.</li> <li>• §200.320 (a)(2)(i): Language was added regarding small purchases to clarify that price quotations must be obtained from an adequate number of qualified sources "<i>as determined by the appropriate non-federal agency.</i>" This means that institutions may determine the number of quotations from sources needed to meet the requirement.</li> <li>• §200.320 (a)(2)(ii): New language regarding the Simplified Acquisition Threshold that allows an entity to utilize a threshold based on internal controls and risk evaluation. This threshold cannot exceed the FAR limit, which is currently set at \$250,000.</li> <li>• Domestic Preference for Procurements §200.322 is addressed separately below - procurements under Federal awards should provide a preference for items produced in the United States to the greatest extent practicable. This provision must be flowed down to all subawards, including contracts and purchase orders for work or products. "Produced" and "manufactured" (§200.322(b)(1) and (2) are narrowly defined to include iron and steel produce, etc., and materials composed of non-ferrous metals.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• When applicable, §200.216 Prohibition on certain telecommunications and video surveillance services or equipment supersedes any guidance in §200.317-327 and must be considered first.</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<ul style="list-style-type: none"> <li>• COGR requested a clarification that General Procurement Standards §200-318 do not apply to procurements made in indirect cost areas, but this change was not made. COGR recommends that institutions continue to assume that standards only apply to the procurement of goods and services directly charged to Federal awards.</li> <li>• The changes made to support purchases using the Micro-purchase threshold and Small purchases using the SAT are helpful. We encourage institutions to review their internal policies around both.</li> <li>• §200.320 (c)(1): Noncompetitive Procurement – COGR had requested that OMB codify the need for sole-source procurement due to scientific reasons by incorporating the following language from the FAQ: "noncompetitive methods (i.e., sole source) is allowable at IHEs and nonprofit research organizations when researchers need to acquire items from a particular source/vendor for scientific reasons." This change was not made. However, COGR's understanding is that FAQs will be addressed by OMB and perhaps also by Federal awarding agencies. COGR will continue to follow.</li> <li>• §200.324(b) Contract Cost and Price - COGR had requested that OMB codify that institutions have the flexibility to negotiate profit by incorporating the following language from the FAQ: "to include profit as part of the broader negotiation of the procurement action." This change was not made. However, an inter-agency workgroup is reviewing the FAQs, and COGR will continue to follow.</li> </ul>
	<p><b>§200.413 Direct costs</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• §200.413 expands examples of costs to be charged as direct to include "program evaluation costs".</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• COGR does not consider this a significant change. Institutions should always take care when direct charging costs that could also be treated as indirect costs.</li> </ul>
	<p><b>§200.414 Indirect (F&amp;A) costs</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• §200.414(f) allows any entity, whether or not they ever had a Federally negotiated F&amp;A rate, to use the 10% <i>de minimus</i> indirect cost rate. No documentation is required to use this rate.</li> <li>• The new section §200.414(h) states that an institution's Federally negotiated rate, distribution base, and rate type must be available publicly on an OMB website.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• The use of the 10% <i>de minimus</i> rate is now clear, concise, and available to all.</li> <li>• COGR awaits further details from OMB on the publishing of F&amp;A information. In the March 2020 letter, COGR questioned why for-profit corporations are not subject to the same requirement.</li> </ul>
	<p><b>§200.419 Cost accounting standards and disclosure statement</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• §200.419(b)(1) states that DS-2s and amendments are now required to be submitted in coordination with the rate proposal, and institutions of higher education must have a submitted DS-2 or revisions before accepting any CAS covered contract.</li> <li>• The threshold for requiring DS-2s remains at \$50 million.</li> </ul>

#	Item	Summary, Points to Consider & COGR Assessment
		<ul style="list-style-type: none"> <li>• §200.419(b)(2) states that institutions "must" maintain an accurate DS-2 and comply with disclosed cost accounting practices.</li> <li>• An institution can submit an amendment to a disclosed practice at any time and implement the change after notifying its cognizant agency for indirect costs. No approval is required unless there is a variation from 2 CFR 200, in which case, approval may be required.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• Organizations should watch when they are getting close to the threshold to submit a DS-2 (\$50 million).</li> <li>• The changes allow more flexibility to implement cost accounting changes without getting formal approval; however, if the institution is unsure of the change is entirely compliant with 2 CFR 200, the institution should contact its cognizant agency. Note, approval practices may vary across the cognizant agencies for indirect cost.</li> <li>• Institutions do not have to wait six months and do not need approval.</li> <li>• Updated DS-2s are now required at the same time as submission of the F&amp;A cost rate proposal.</li> <li>• Also note, to COGR's knowledge, a revised DS-2 form still is not available.</li> </ul>
	<p><b>§200.431 Compensation - fringe benefits, including pension plan costs</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• §200.431 (g)(3) includes a provision that, except for state and local governments, the pension plan costs assigned to each fiscal year should be determined in accordance with GAAP. Previously, only those entities that already used accrual accounting were required to determine costs this way.</li> </ul> <p><b>Points to Consider &amp; COGR'S Assessment:</b></p> <ul style="list-style-type: none"> <li>• Communicate with subrecipients, especially those that operate on a cash basis, e.g., small companies.</li> <li>• COGR has not identified any concerns; institutions should follow GAAP. Implement appropriate subrecipient monitoring oversight to ensure subs adhere to proper oversight of Federal flow-down funds.</li> </ul>
	<p><b>§200.436 Depreciation</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>• §200.436(c)(3) is updated to state that when calculating depreciation, the acquisition costs must exclude "any portion of the cost of buildings and equipment contributed by or for the non-Federal entity that are already claimed as matching or where law or agreement prohibits recovery".</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>• In COGR's March 2020 response, we raised the concern that this change could inappropriately restrict legitimate F&amp;A recovery at IHEs. Often, when an IHE shares in the cost of an asset, the IHE contribution is not recognized as "matching." However, the new language could be misinterpreted to mean any IHE contribution will be treated as "matching." Furthermore, FAQ 200.436-1 states, "depreciation on the institutional contribution is allowable unless law or agreement prohibits recovery." COGR will further pursue this issue.</li> </ul>
	<p><b>§200.449 Interest</b></p>	<p><b>The following is noted for this section:</b></p>

#	Item	Summary, Points to Consider & COGR Assessment
		<ul style="list-style-type: none"> <li>§200.449(c)(4), prior to the revision, interest was potentially disallowed if a capital lease was less costly than debt financing. This language has been changed from "capital lease" to "a lease contract that transfers ownership by the end of the contract capital lease."</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>The new language should be reviewed closely, and institutions should maintain adequate documentation on all situations when debt financing is used.</li> </ul>
	<p><b>§200.464 Relocation costs of employees</b></p>	<ul style="list-style-type: none"> <li>The following is noted for this section. (Under Review).</li> </ul>
	<p><b>§200.465 Rental costs of real property and equipment</b></p>	<ul style="list-style-type: none"> <li>The following is noted for this section. (Under Review).</li> </ul>
	<p><b>§200.471 Telecommunications and video surveillance costs</b></p>	<ul style="list-style-type: none"> <li>See §200.216 for Prohibition on the purchase of telecommunications and equipment from certain prohibited entities.</li> </ul>
	<p><b>§200.513 Responsibilities (of Federal Agencies)</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>A non-Federal entity expending more than \$50 million a year in Federal awards must have a cognizant agency for audit. The change clarifies how cognizance is assigned: "the Federal awarding agency that provides the predominant amount of direct funding (as listed on the SEFA, see §200.510(b)) to a non-Federal entity unless OMB designates a specific cognizant agency for audit. When the direct funding represents less than 25 percent of the total expenditures, then the Federal agency with the predominant amount of total funding is the designated cognizant agency for audit."</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>COGR has not identified any concerns.</li> </ul>
	<p><b>Appendix III, Section B, Indemnification &amp; Assignment of Indirect (F&amp;A) Cost</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>Per Appendix III (D.4.c), the utility cost adjustment (up to 1.3%) remains unchanged and relies on a July 2012 study from the Lawrence Berkeley National Laboratory.</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>Under the 2014 UG, a review will be completed within five years. COGR has requested such a study in an 11/13/2015 Letter to OMB and again in the March 2020 comment letter to OMB.</li> </ul>



#	Item	Summary, Points to Consider & COGR Assessment
		<ul style="list-style-type: none"> <li>COGR's, analysis from 2015 showed that if the methodology is updated, the weighting factor associated with research space will increase significantly.</li> </ul>
	<p><b>Appendix IV, Section C, Negotiation &amp; Approval of Indirect Cost Rates</b></p>	<p><b>The following is noted for this section:</b></p> <ul style="list-style-type: none"> <li>If the nonprofit does not receive any funding from any Federal agency, the pass-through entity is responsible for the negotiation of the indirect cost rates per §200.332(a)(4).</li> </ul> <p><b>Points to Consider &amp; COGR Assessment:</b></p> <ul style="list-style-type: none"> <li>This is an unfunded mandate and places a burden on the pass-through entities; either require the subrecipient to accept the <i>de minimus</i> 10% rate or complete a review of their F&amp;A costs.</li> </ul>

DRAFT