

CUNY Uniform Guidance Reference for Grants Officers

The CUNY Uniform Guidance Working Group has identified the following key changes to the Federal regulations that impact all Federally funded awards at CUNY.

Supersession and effective date

2 CFR 200.104

2 CFR 200.110

The Uniform Guidance supersedes eight Office of Management and Budget (OMB) Circulars. They include: A-21, A-87, A-122, A-89, A-102, A-110, A-133 and A-50. A single, common set of cost principles creates common accounting standards for all grant recipients regardless of institutional type. The Uniform Guidance went into effect for Federal agencies and institutes of higher education on December 26, 2014.

Impact:

- All new Federal awards issued on or after 12/26/2014 will be governed by terms and conditions subject to the Uniform Guidance.
- Effective immediately, proposals to Federal sponsors should be developed in accordance with the Uniform Guidance.
- Any funding changes on existing awards may be subject to the Uniform Guidance at the discretion of the Federal agency.

Cost sharing

2 CFR 200.306

Cost sharing or matching is the portion of project costs not paid by Federal funds. Under the new regulations contained in the Uniform Guidance, voluntary cost sharing is not expected and it cannot be used as a factor during the merit review of proposals.

Impact:

- Voluntary cost sharing has been used in some situations to make a proposal appear more competitive to a Federal agency. **This practice is no longer allowed.**
- Funding proposals should not contain formal cost sharing commitments unless cost sharing is required (mandatory) by the sponsoring agency, and is stated as an eligibility criterion for the funding program.
- In cases when a commitment of institutional resources is strongly encouraged by the sponsoring agency in the official notice of funding opportunity, any cost sharing **must** be approved by the Vice Chancellor for Research prior to the proposal submission.

See RF Policy No. 545 on Cost Sharing:

<https://www.rfcuny.org/RFWebsite/learning-resources/review-policies-procedures/cost-sharing/>

Budget and Program Revisions

2 CFR.308

Recipients are required to report significant changes to a project budget, scope, or objectives, and request prior approvals from Federal awarding agencies for one or more of the following reasons:

- (1) Change in the scope or the objective of the project or program.
- (2) Change in key personnel specified in the application or the Federal award.
- (3) **The disengagement from the project for more than three months—or a 25% reduction in time devoted to the project—by the designated project director or principal investigator.**
- (4) The transfer of funds budgeted for participant support costs to other categories of expense.
- (5) Changes in the amount of approved cost-sharing or matching provided by the non-Federal entity.

Impact: The Uniform Guidance use of *disengagement*, rather than *absence* (used in OMB A-110), better reflects the fact that it is possible for PIs to be away from campus and remain engaged in the project at the proposed levels. Prior approval is only required in the event that disengagement from the project occurs during the absence.

Procurement

2 CFR 200.317 - 326 (in effect beginning FY 2019)

The Uniform Guidance provides specific instructions detailing the procedures research institutions must follow to procure goods and services. The new language focuses on the competitive selection of vendors and was chosen to mitigate the risk of waste, fraud, and abuse. This includes stricter requirements for sole source purchases.

Section 200.320 describes the five methods of procurement:

- **Micro-purchase** (less than \$10,000 – **threshold update per OMB M-18-18**) is a purchase of supplies or services using simplified acquisition procedures. Micro-purchases may not exceed the threshold of \$10,000. Purchases of supplies or services under \$10,000 are treated as micro-purchases. The purchase orders may be awarded without soliciting any competitive quotes if the non-Federal entity considers the costs to be reasonable.
- **Small purchase** (less than \$250,000) procedures are used to expedite the purchase of items costing less than the simplified acquisition threshold of \$250,000. All purchases between \$10,000 and \$250,000 can use the small purchase procedures stated in section 200.320 (b), which describes the procedures as “relatively simple and informal.” Price or rate quotations must be obtained from an adequate number of qualified sources (at least 2).
- **Sealed bid** (\$250,000 or more) procedures are most often used for construction contracts. Bids are formally advertised and a fixed price contract is awarded to the lowest bidder who meets all the terms and conditions of the solicitation.
- **Competitive proposal** (\$250,000 or more) procedures are employed when sealed bids are not appropriate, and involve multiples vendors submitting offers to compete for a contract.
- **Noncompetitive purchasing** is procurement through solicitation of a proposal from only one source (i.e. sole source) and involves special circumstances applicable to purchases at all levels.

Impact: The Research Foundation of CUNY is currently working on revising its procurement policy (see Policy No. 501-D) to conform to the new standards outlined in the Uniform Guidance.

Subrecipient Monitoring and Management
Subrecipient and Contractor Determinations
2 CFR 200.330

If a CUNY college is pass-through entity for a Federal award, there must be a case-by-case determination as to whether the recipient party should be classified as a subrecipient or a contractor.

Definitions:

- A **subaward** is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient.
- A **contract** is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship between CUNY and the contractor.

Impact: Because, institutions lose Indirect Costs when there is an incorrect designation as a subrecipient, the CUNY Uniform Guidance Working Group has developed a *Checklist to Determine Subrecipient or Contractor Classification*. This document is intended to guide the discussion between the campus Grants Office and the PI during the proposal stage to ensure proper classification and assist with budgeting process.

If the Checklist process determines that there is a genuine subrecipient relationship, a *Subrecipient Commitment Form* will be completed by the subrecipient organization at the proposal stage, to confirm its relationship to CUNY as the pass-through entity. This form also asks for additional information and documentation including: organizational information, facilities & administrative rate, fringe benefit rate, statement of work, budget & budget justification, and any other documents required by the proposal.

The completed *Subrecipient Commitment Form* will be submitted to the RF at the proposal award stage when the other programmatic and budgetary documents are submitted.

Subrecipient Monitoring and Management
Indirect Cost Rates
2 CFR 200.331 & 2 CFR 200.414

§200.331 requires that CUNY recognize and use a subrecipient's Federally approved indirect (F&A) cost rate, or an alternative rate as described below, for all subawards included in competitive proposals.

Impact: If a Federal opportunity has an announced statutory F&A cap, both CUNY and any subrecipients must use that rate. For other Federal opportunities, subrecipients should budget F&A based on their Federally negotiated rate agreement. If a proposed subrecipient does not have a Federally negotiated rate agreement, a 10% *de minimus* F&A rate **must** be used instead.

All CUNY institutions have Federally negotiated rate agreements; therefore, the established F&A rate **must** be used when any CUNY entity is proposed as a subrecipient on a Federally funded project.

**Subrecipient Monitoring and Management
Requirements for pass-through entities
2 CFR 200.331**

The Uniform Guidance requires that CUNY strengthen its oversight of subrecipient organizations.

§200.331 outlines the information and documentation that a pass-through entity must collect in order to evaluate risk and to ensure subrecipients are fully compliant with Federal regulations and sponsor requirements. This includes, but is not limited to, soliciting single audit reports, certification of debarment status, and confirmation of compliance with Conflict of Interest requirements.

Additionally, §200.331 requires the pass-through entity to monitor the activities of the subrecipient over the life of a project; this includes oversight of all required performance and financial reports (including invoices).

Impact: Once a Federal grant has been awarded, the CUNY Research Foundation performs this monitoring function at the organizational level. See RF Subrecipient Monitoring Procedure: <https://www.rfcuny.org/RFWebsite/learning-resources/review-policies-procedures/subrecipient-monitoring-procedure/>

As has long been the case, the PI is responsible for monitoring all subrecipients at the project level. This requires:

- Review of subrecipient progress reports.
- Review of subrecipient expenditures to ensure they are reasonable, allowable and allocable.
- Corrective action and notification to Grants Officers and the RF if a subrecipient is not performing.

**Charging Administrative and Clerical Staff Salary Costs
2 CFR 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.
(4) The costs are not also recovered as indirect costs.

Impact: If administrative or clerical services are deemed essential and integral to the project or activity, the Principal Investigator must provide a detailed justification of this need in the proposal budget justification. If a proposal is submitted with the required justification outlined above, and the subsequent Notice of Grant Award issued by the Federal agency does not explicitly disallow the administrative cost, the administrative and clerical costs will be considered approved.

See RF Policy No. 202 Administrative and Clerical Salaries: <https://www.rfcuny.org/RFWebsite/learning-resources/review-policies-procedures/administrative-and-clerical-salaries/>

Indirect (F&A) costs

2 CFR 200.414

§200.414 states: any non-Federal entity that has a Federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rates for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. If an extension is granted, the non-Federal entity may not request a rate review until the extension period ends. At the end of the 4-year extension, the non-Federal entity must re-apply to negotiate a rate.

Impact: The intent of allowing indirect cost rate extensions is to minimize the administrative burden for the non-Federal entity. As such, documentation requirements to support a four-year indirect cost rate extension should be kept to a minimum. A non-Federal entity can apply for a one-time extension (up to four years) on its most current negotiated rate. Subsequent one-time extensions (up to four years) are available if a renegotiation is completed between each extension request. Such requests should be submitted 60 days prior to the due date of the next proposal for indirect costs, but cognizant agencies for indirect costs may accept extension requests submitted later than that on a case-by-case basis.

Computing Devices

2 CFR 200.94 & 200.453

“A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000.” Computing devices can be direct charged to a Federal award if they are essential and allocable, even if they are not solely dedicated, to the performance of the Federal award.

Computing devices may be charged as a direct cost to Federally sponsored awards to the extent the devices are *essential, allocable, allowable, and directly benefit the project*.

- **Essential:** The project’s objectives cannot be completed without the computing device.
- **Allocable:** All or a portion of the device’s use is for the sponsored project and the project’s portion of the use can be reasonably estimated.
- **Allowable:** The terms of the award and/or the sponsor’s policies permit purchasing the device.

Impact: Computing devices under **\$5,000 per unit** may be direct charged to a project or activity under the following circumstances:

- The devices are essential* and allocable to the project in that they are 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.
- The PI does not have access to other devices or equipment that can achieve the same purpose; devices may not be purchased for reasons of convenience or preference.

Computing Devices

2 CFR 200.94 & 200.453 (cont'd.)

- Items costing \$5,000 or more per unit are considered equipment and follow Federal equipment rules for when they can be charged as a direct expense.
- As is the case with capitalized equipment, there will be a restriction on purchasing computing devices within the last **90 days** of an award.

* PIs are responsible for documenting how the device is “essential” and to what extent the cost of the device is reasonable and allocable to the sponsored project. PIs and departments must maintain documentation detailing how the computing device meets the above requirements.

The PI and the Department are responsible for any purchased computing devices and must ensure they are appropriately held and managed as Federally funded University property.

Participant Support Costs

2 CFR 200.456

With the implementation of the Uniform Guidance, participant support costs are allowable with agency prior approval. 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 explicitly excluded in the calculation of *Modified Total Direct Costs* (as defined in §200.68) and are considered exempt from F&A.

Impact: Participant support costs are not routinely allowed on research projects but can be charged if the agency approves of such costs in advance. Participant support costs should be explicitly listed in the proposal budget and budget justification or approved by the funding agency after the award has been made.

The RF Board is working on final approvals for a new policy on Participant Support Costs that will be posted on the RF website.

Travel Costs

2 CFR 200.474

§200.474 (b) requires that if travel costs are charged directly to the Federal award documentation must justify that:

- (1) Participation of the individual is necessary to the Federal award; and
- (2) **The costs are reasonable and consistent with the non-Federal entity’s established travel policy.**

Temporary dependent care costs that directly result from travel to conferences is allowable.

Travel Costs

2 CFR 200.474 (cont'd.)

Impact: In order to comply with these regulations, documentation of the necessity of the travel to the Federal award is required for any travel expense that is charged to a Federal award. The purpose of the trip should be indicated on the travel reimbursement form and appropriate documentation (invitation, conference brochure, etc.) must be attached to the request. If documentation of the necessity of travel is not provided, the travel may be deemed unallowable on the Federal award and the expense may have to be transferred to an appropriate unrestricted source.

Dependent care cost is not consistent with CUNY's documented travel policy for all entity travel.

See RF General Travel Guidelines:

<https://www.rfcuny.org/RFWebsite/principal-investigators/coordinating-post-award-travel/adhering-to-travel-guidelines/>

Closeout

2 CFR 200.343

§200.474 requires all reports related to a Federal award are due no later than 90 calendar days after the end date of the period of performance. This includes all technical, financial (including subaward) reports and invoices for payments. Federal agencies indicate that they will not allow cash draws on awards after 90 days, except in exceptional cases, as approved by the agency (Sections 200.16 & 200.343).

Impact: PIs must have all reports completed and ensure all subrecipient reports and invoices are submitted within **60 calendar days** after the end date of the award to ensure that the Research Foundation can submit final reports in a timely manner.