

New Regulatory Requirements – Uniform Administrative Requirements, Cost Principles and
Audit Requirements for Federal Awards (Uniform Grants Guidance)

Background: OMB’s Uniform Grants Guidance (UGG) streamlines eight Federal regulations into a single, comprehensive policy guide to decrease the administrative burden for grant recipients and reduce the risk of waste, fraud and abuse.

The UGG, located in 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110 and A-122 (which had been placed in 2 CFR Parts 220, 225, 215, and 230); Circulars A-89, A-102 and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. Upon implementation on December 26, 2014, EPA’s Uniform Administrative Requirements outlined in 40 CFR 30 and 31 are superseded by the UGG 2 CFR 200 and the EPA-specific regulations that are located in 2 CFR 1500.

Effective December 26, 2014, the UGG applies to new grants awarded on or after December 26, 2014, as well as unobligated balances and any new funding through amendments that occur on or after December 26, 2014.

<p>Table 1 below summarizes the following policy changes and new regulatory requirements resulting from the implementation of the UGG.</p> <ul style="list-style-type: none"> 200.88 – Simplified Acquisition Threshold 200.112 – Conflict of Interest 200.201, 1500.5 – Use of Grant Agreements 200.203 – Notices of Funding Opportunities 200.303 – Internal Controls 200.306 – Cost Sharing or Matching 200.343 – Closeout 200.414 – Indirect (F&A) Costs 200.461 – Publication and Printing Costs 200.501 – Audit Requirements 200.503 – Relation to Other Audit Requirements 200.516 – Audit Findings 200.518 – Major Program Determination 200.520 – Criteria for Low-Risk Auditee 	<p>Table 2 below presents EPA-specific continued regulatory requirements located in 2 CFR 1500.</p> <ul style="list-style-type: none"> 1500.3 Exceptions 1500.6 Record Retention Requirements 1500.7 Program Income 1500.8 Revision of Budget and Program Plans 1500.9 General Procurement Standards 1500.10 Use of the Same Architect or Engineer During Construction 1500.11 Quality Assurance 1500.12 Disputes
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Table 1. UGG Policy Changes and New Regulatory Requirements

Previous Policy	Policy Change
200.88 – Simplified Acquisition Threshold	
OMB Circular A-110 Section 2 - Small awards means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (\$25,000).	Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. The simplified acquisition threshold is \$150,000 , and this threshold is periodically adjusted for inflation.

200.112 – Conflict of Interest	
Not applicable – new requirement	The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy. EPA’s Interim Financial Assistance Policy is available at: http://www.epa.gov/ogd/coi.htm .
200.201, 1500.5 – Use of Grant Agreements (Including Fixed Amount Awards), Cooperative Agreements, and Contracts	
OMB Circular A-110 Section 11(a) - In each instance, the Federal awarding agency shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government. Similar language is included in OMB Circular A-102 Section 1(a).	The Federal awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or contract) in accordance with the Federal Grant and Cooperative Agreement Act. Federal awarding agencies, or pass-through entities as permitted in §200.332 Fixed Amount Subawards, may use fixed amount awards. Payments are based on meeting specific requirements of the Federal award. Accountability is based on performance and results. The Federal awarding agency or pass-through entity may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the non-Federal entity will realize no increment above actual cost. A fixed amount award cannot be used in programs that require mandatory cost sharing or match. In the EPA, programs awarding fixed amount awards will do so in accordance with guidance issued from the Office of Grants and Debarment. (See 2 CFR 200.201(b)).
200.203 – Notices of Funding Opportunities	
OMB Circular A-110 Section 11(b) - Public Notice and Priority Setting. Federal awarding agencies shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute. It does not specify the information contained in the funding opportunity announcement or the length of time the announcement should be open. Similar language is included in OMB Circular A-102 Section 1(b).	The Federal awarding agency must generally make all funding opportunities available for application for at least 60 calendar days. The Federal awarding agency may make a determination to have a less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances require as determined by the Federal awarding agency head or delegate. The Federal awarding agency must include the following information in the full text of each funding opportunity (specific instructions on the content are included in Appendix I to Part 200): (1) Full programmatic description of the funding opportunity (2) Federal award information (3) Specific eligibility information (4) Application Preparation and Submission Information (5) Application Review Information including the criteria and process to be used to evaluate applications (6) Federal Award Administration Information For EPA open competitions the minimum open period is 45 days and for simplified competitions it’s 30 days. Some offices choose to have them open longer, but those are the minimums.

200.303 – Internal Controls	
<p>Not applicable – new requirement</p> <p>Previous Financial and Program Management requirements were outlined in OMB Circular A-110 Section 21</p>	<p>The non-Federal entity must:</p> <ul style="list-style-type: none"> • Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). • Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards. • Evaluate and monitor the non-Federal entity's compliance with statute, regulations and the terms and conditions of Federal awards. • Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings. • Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.
200.306 – Cost Sharing or Matching	
<p>Not applicable – new requirement</p> <p>Previous Cost Sharing or Matching requirements were included in OMB Circular A-110 Section 23</p>	<p>Under Federal research proposals, voluntary committed cost sharing is not expected. It cannot be used as a factor during the merit review of applications or proposals, but may be considered if it is both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity. Criteria for considering voluntary committed cost sharing and any other program policy factors that may be used to determine who may receive a Federal award must be explicitly described in the notice of funding opportunity.</p>
200.343 – Closeout	
<p>OMB Circular A-110 Section 71 - Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. Unless the Federal awarding agency authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.</p>	<p>The non-Federal entity or pass-through entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by or the terms and conditions of the Federal award. Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.</p>
200.414 – Indirect (F&A) Costs	
<p>Not applicable – new requirement</p>	<p>Negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification.</p> <p>Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200—States and Local Government and Indian Tribe</p>

	<p>Indirect Cost Proposals, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. Costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.</p> <p>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.</p>
<p>200.461 – Publication and Printing Costs</p>	
<p>Not applicable – new requirement Previous Publication and Printing Costs requirements were included in OMB Circular A-21 Section 39</p>	<p>The non-Federal entity 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.</p>
<p>200.501 – Audit Requirements</p>	
<p>OMB Circular A-133 Section 200 - Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single audit conducted in accordance with Section 500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.</p> <p>Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).</p>	<p>A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of Audit except when it elects to have a program-specific audit conducted.</p> <p>A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity and Government Accountability Office (GAO).</p>
<p>200.503 – Relation to Other Audit Requirements</p>	
<p>OMB Circular A-133 Section 215 - An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.</p>	<p>An audit conducted in accordance with this part must be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal statute or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal statute or regulation, a Federal agency must rely upon and use that information. A Federal agency, Inspectors General, or GAO may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal statute or regulation. The provisions of this part do not authorize any non-Federal entity to constrain, in any manner, such Federal agency from carrying out or arranging for such additional audits, except that the Federal agency must plan such audits to not be duplicative of other audits of Federal awards. Prior to commencing such an audit, the Federal agency or pass-through entity must review the FAC for recent audits submitted by the non-Federal entity, and to the extent such audits meet a Federal agency or pass-through entity's needs, the Federal agency or pass-through entity must rely upon and use such audits. Any additional audits must be planned and performed in such a way as to build upon work</p>

	performed, including the audit documentation, sampling, and testing already performed, by other auditors.
200.516 – Audit Findings	
<p>OMB Circular A-133 Section 510 - The auditor shall report the following as audit findings in a schedule of findings and questioned costs:</p> <ul style="list-style-type: none"> • Known questioned costs which are greater than \$10,000 for a type of compliance requirement for a major program. The auditor shall also report known questioned costs when likely questioned costs are greater than \$10,000 for a type of compliance requirement for a major program. • Known questioned costs which are greater than \$10,000 for a Federal program which is not audited as a major program. 	<p>The auditor must report the following as audit findings in a schedule of findings and questioned costs:</p> <ul style="list-style-type: none"> • Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. • Known questioned costs that are greater than \$25,000 for a Federal program which is not audited as a major program.
200.518 – Major Program Determination	
<p>OMB Circular A-133 Section 518 - The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall have had no audit findings under Section 510(a). The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in Section 525. Except for known significant deficiencies in internal control or compliance problems, a single criteria in would seldom cause a Type B program to be considered high-risk.</p>	<p>The auditor must identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it must have been audited as a major program in at least one of the two most recent audit periods and, in the most recent audit period, the program must have not had internal control deficiencies which were identified as material weaknesses in the auditor's report on internal control for major programs as required under §200.515 Audit Reporting, paragraph (c). The auditor must identify Type B programs which are high-risk using professional judgment and the criteria in §200.519 Criteria for Federal Program Risk. Except for known material weakness in internal control or compliance problems as discussed in §200.519 Criteria for Federal Program Risk paragraphs (b)(1), (b)(2), and (c)(1), a single criteria in risk would seldom cause a Type B program to be considered high-risk.</p>
200.520 – Criteria for Low-Risk Auditee	
<p>OMB Circular A-133 Section 530 - An auditee which meets all of the following conditions for each of the preceding two years shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with Section 520:</p> <ul style="list-style-type: none"> • Single audits were performed on an annual basis in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee • The auditor's opinions on the financial statements and the schedule of expenditures of Federal awards were unqualified. • There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. • None of the Federal programs had audit findings from any of the following in either of the preceding two years in which they were classified as Type A programs: 	<p>An auditee that meets all of the following conditions for each of the preceding two audit periods must qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with §200.518 Major Program Determination.</p> <ul style="list-style-type: none"> • Single audits were performed on an annual basis in accordance with the provisions of this Subpart, including submitting the data collection form and the reporting package to the FAC within the timeframe specified in §200.512 Report Submission. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee. • The auditor's opinion on whether the financial statements were prepared in accordance with GAAP, or a basis of accounting required by state law, and the auditor's in relation to opinion on the schedule of expenditures of Federal awards were unmodified. • There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. • The auditor did not report a substantial doubt about the auditee's ability to continue as a going concern.

<ul style="list-style-type: none"> ○ Internal control deficiencies which were identified as material weaknesses ○ Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program ○ Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year 	<ul style="list-style-type: none"> ● None of the Federal programs had audit findings from any of the following in either of the preceding two audit periods in which they were classified as Type A programs: <ul style="list-style-type: none"> ○ Internal control deficiencies that were identified as material weaknesses ○ A modified opinion on a major program in the auditor's report on major programs as required under §200.515 Audit Reporting ○ Known or likely questioned costs that exceeded five percent of the total Federal awards expended for a Type A program during the audit period
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Table 2. EPA's Continued Regulatory Requirements

UGG Section	Previous Policy	Topic	Regulatory Requirement
1500.3	40 CFR 30.4 and 40 CFR 31.6	Exceptions	<p>Consistent with 2 CFR 200.102(b):</p> <ul style="list-style-type: none"> ● In the EPA, the Director, Office of Grants and Debarment or designee, is authorized to grant exceptions on a case-by-case basis for non-Federal entities. ● The EPA Director or designee is also authorized to approve exceptions, on a class or an individual case basis, to EPA program specific assistance regulations other than those which implement statutory and executive order requirements.
1500.6	40 CFR 30.53 and 40 CFR 31.42	Record Retention Requirements	In the EPA, some programs require longer retention requirements for records by statute. When there is a difference between the retention requirements for records of the Uniform Grants Guidance (2 CFR 200.333) and the applicable statute, the non-federal entity will follow the retention requirements for records in the statute.
1500.7	40 CFR 30.24 and 40 CFR 31.25	Program Income	<ul style="list-style-type: none"> ● Governmental revenues: Permit fees are governmental revenue and not program income. (See 2 CFR 200.307(c)) ● Use of Program Income: The default use of program income for EPA awards is addition. The program income shall be used for the purposes and under the conditions of the assistance agreement. (See 2 CFR 200.307(e)(2)) ● Brownfields Revolving Loan: To continue the mission of the Brownfields Revolving Loan fund, recipients may use grant funding prior to using program income funds generated by the revolving loan fund. Recipients may also keep program income at the end of the assistance agreement as long as they use these funds to continue to operate the revolving loan fund or some other brownfield purpose as outlined in their closeout agreement.
1500.8	40 CFR 30.25	Revision of Budget and Program Plans	EPA award recipients may incur allowable project costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of EPA. All costs incurred before EPA makes the award are at the recipient's risk. EPA is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs.
1500.9	40 CFR 30.27 (b)	General Procurement Standards	Payment to consultants: EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (Recipients may, however, pay consultants more than this amount with non EPA funds.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices. Contracts with firms for services which are awarded using the procurement standards in Subpart D of 2 CFR part 200 are not affected by this limitation. Subawards with firms for services which are awarded using the procurement standards in 2 CFR 200.317 through 2 CFR 200.326 are not affected by this limitation.

Table 2. EPA's Continued Regulatory Requirements

UGG Section	Previous Policy	Topic	Regulatory Requirement
1500.10	40 CFR 31.36(k)	Use of the Same Architect or Engineer During Construction	<p>If the recipient is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for a waste-water treatment works project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evaluation of qualifications, provided:</p> <ul style="list-style-type: none"> • The recipient received a facilities planning (Step 1) or design grant (Step 2), and selected the architect or engineer in accordance with EPA's procurement regulations in effect when EPA awarded the grant; or • The award official approves noncompetitive procurement under 2 CFR 200.320(f) for reasons other than simply using the same individual or firm that provided facilities planning or design services for the project; or • The recipient attests that: <ul style="list-style-type: none"> ○ The initial request for proposals clearly stated the possibility that the firm or individual selected could be awarded a subaward for services during construction; and ○ The firm or individual was selected for facilities planning or design services in accordance with procedures specified in this section. ○ No employee, officer or agent of the recipient, any member of their immediate families, or their partners have financial or other interest in the firm selected for award; and ○ None of the recipient's officers, employees or agents solicited or accepted gratuities, favors or anything of monetary value from contractors or other parties to subawards.
1500.11	40 CFR 30.54 & 40 CFR 31.45	Quality Assurance	<ul style="list-style-type: none"> • Quality assurance applies to all assistance agreements that involve environmentally related data operations, including environmental data collection, production or use. • Recipients shall develop a written quality assurance system commensurate with the degree of confidence needed for the environmentally related data operations. • If the recipient complies with EPA's quality policy, the system will be presumed to be in compliance with the quality assurance system requirement. The recipient may also comply with the quality assurance system requirement by complying with American National Standard ANSI/ASQ E4:2014: Quality management systems for environmental information and technology programs. • The recipient shall submit the written quality assurance system for EPA review. Upon EPA's written approval, the recipient shall implement the EPA-approved quality assurance system. • EPA Quality Policy is available at: http://www.epa.gov/quality.
Subpart E - Disputes 1500.12	40 CFR 31 Subpart F	Disputes	<p>Pre-award and post-award disagreements between affected entities and EPA related to an assistance agreement should be resolved at the lowest level possible. If an agreement cannot be reached, absent any other applicable statutory or regulatory dispute provisions, affected entities must follow the dispute procedures outlined in this subpart.</p> <p>Determinations affecting assistance agreements made under other Agency decision-making processes are not subject to review under the procedures in this Subpart or the Agency's procedures for resolving assistance agreement competition-related disputes. These determinations include, but are not limited to:</p> <ul style="list-style-type: none"> • Decisions on requests for exceptions under §1500.3; • Bid protest decisions under 2 CFR 200.318(k) • National Environmental Policy Act decisions under 40 CFR part 6; • Policy decisions of the EPA Internal Audit Dispute Resolution Process (formerly known as Audit Resolution Board); and • Suspension and Debarment Decisions under 2 CFR parts 180 and 1532. <p>Specific guidance outlining the EPA's dispute procedures is available in Sections 1500.14-1500.19.</p>

