

TO: Grant Recipients

FROM: Phillip Juengst, Deputy Assistant Secretary
Office of Acquisition and Grants Administration

SUBJECT: Updates to 2 CFR part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and other grant administration information

DATE: December 23, 2020

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The Department of Education sends this e-mail notification to inform all grant recipients of the Office of Management and Budget (OMB) final regulations updating 2 CFR part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) that were codified November 12, 2020. These updates are the results of revisions to the National Defense Authorization Act, the Federal Funding Accountability and Transparency Act (FFATA), as amended under the Digital Accountability and Transparency Act, and changes that occurred from the implementation of the Grants Oversight and New Efficiency Act.

This notification also includes: 1) Updated information issued by the U.S. Department of Health and Human Services (HHS), Payment Management System (PMS) – Program Support Center (PSC) that addresses the return of interest earned from Federal grant drawdowns; and 2) Clarifications to the definition of an improper payment provided by the updates to OMB Circular A-123, Appendix C (M-18-20), June 26, 2018. Following are some of the Uniform Guidance updates and grant administration information applicable to federal grant recipients.

1. Federal Funding Accountability and Transparency Act (FFATA)

The revisions to CFR Title 2 part 170 increase the threshold that establishes requirements for federal grant recipient's reporting of information on subawards and executive total compensation, as required by FFATA, from \$25,000 to \$30,000. The Department will continue to include [the specific award term, Appendix A to Part 170—Award Term](#) to all grant recipients under which the total federal funding is anticipated to equal or exceed \$30,000. _

Subpart B-Policy

[§170.200](#) Federal Awarding Agency Reporting Requirements

- (a) Federal awarding agencies are required to publicly report all federal awards that equal or exceed the micro-purchase threshold and publish the required information on a public-facing, OMB designated government website and follow OMB guidance to support Transparency Act Implementation.

[§170.220](#) Award term

- (a) To accomplish the purposes described in §170.100, a federal awarding agency must include the award term in appendix A to this part in each federal award to a recipient under which the total funding is anticipated to equal or exceed \$30,000 in federal funding.

NOTE: The requirements are also addressed in the [FAR subpart 4.14](#) and [section 52.204-10](#). The section requires contractors to report subcontract award data and the total compensation of the five most highly compensated executives of the contract and subcontractor.

200.414 Indirect (F&A) Costs

This section addresses the expansion of the de minimis rate of 10 percent of modified total direct costs (MTDC) to all non-federal entities (except for those described in Appendix VII to Part 200—State and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b)) by allowing the de minimis rate for non-federal entities that have never received a negotiated indirect cost rate and non-federal entities whose rate has expired to use the 10 percent of MTDC, thereby reducing burden for both the non-federal entities and the Federal agencies for preparing, reviewing, and negotiating indirect cost rates.

To further support reduction of burden, this section also clarifies that when a non-federal entity is using the de minimis rate for its federal grants, it is not required to provide proof of costs that are covered under that rate. Lastly, for transparency purposes, another revision adds a new paragraph (h) to §200.414 to require that negotiated agreements for indirect cost rates are collected and displayed on a public website.

(f) In addition to the procedures outlined in the appendices in paragraph (e) of this section, any non-federal entity that does not have a current negotiated (including provisional) rate, except for those non-federal entities described in appendix VII to this part, paragraph D.1.b, may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC) which may be used indefinitely. No documentation is required to justify the 10 percent de minimis indirect cost rate. As described in §200.403, 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.

...

(h) The federally negotiated indirect rate, distribution base, and rate type for a non-federal entity (except for the Indian tribes or tribal organizations as defined in the Indian Self-Determination, Education and Assistance Act, 25 U. S. C. §450b must be available publicly on an OMB-designated federal website.

Note: This update to the de minimis rate is not applicable to entities administering ED designated “training grants” which cap indirect cost rates to eight percent or the actual rate, whichever is the lesser amount.

2. Closeout

The updates to grant closeout extends the recipient’s liquidation period, the period that immediately follows the end date of the period of performance, from 90 calendar days to no later than 120 calendar days for the submission of all financial, performance, and other reports as required by the terms and conditions of the federal award. During this time, the recipient must liquidate all financial obligations incurred during the period of performance. The updates also require recipients to promptly refund unobligated cash balances and for the Department to report grant recipients’ material failure to comply with the terms and conditions of the award in the Federal Awardee Performance and Integrity Information System (FAPIIS).

The Department must still make every effort to complete closeout actions no later than one year after the end of the period of performance unless otherwise directed by authorizing statutes even with the additional 30 days allowed for reporting and the liquidation of funds.

Recipients with a 24-month or 27-month Tydings Period^[1] will have 120-calendar days after the end date of this period to submit all financial, performance, and other reports as required by the terms and condition of the award. This additional month will not change the requirement that all final closeout actions must be completed by the end of the calendar year unless the grant receives an extension.

The Department will continue to reach out to grantees to provide technical assistance for grant closeout and ensure compliance with grant terms and conditions.

§200.344 Closeout

- (a) The recipient must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the federal award. A subrecipient must submit to the pass-through entity, no later than 90 calendar days (or an earlier date as agreed upon by the pass-through entity and subrecipient) after the end date of the period of performance, all financial, performance, and other reports as required by the terms and

conditions of the federal award. The federal awarding agency or pass-through entity may approve extensions when requested and justified by the non-federal entity, as applicable.

- (d) The non-federal entity must promptly refund any balances of unobligated cash that the federal awarding agency or pass-through entity paid in advance or paid and that are not authorized to be retained by the non-federal entity for use in other projects. See [OMB Circular A-129](#) and see §200.346, for requirements regarding unreturned amounts that become delinquent debts.
- (i) If the non-federal entity does not submit all reports in accordance with this section within one year of the period of performance end date, the federal awarding agency must report the non-federal entity's material failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS). Federal awarding agencies may also pursue other enforcement actions per §200.339.

3. Improper Payments

[OMB Circular A-123—Management's Responsibility for Internal Control in Federal Agencies, Appendix C—Requirements for Payment Integrity Improvement.](#)

- An **improper payment** is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. This includes:
 - An **incorrect amount that is an overpayment or underpayment that is made** to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments.) For example, an excessive draw from G5 may be deemed an improper overpayment.
 - Any payment that was made to an **ineligible** recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).
- In addition, when an agency's improper payment review under OMB Circular A-123 is unable to discern whether a payment was proper because of **insufficient or lack of documentation**, this payment should also be considered an improper payment.
- **Questioned costs that are sustained** by the Department through a Program Determination Letter (PDL) are also improper payments. A questioned cost is defined in 2 CFR § 200.84 as "a cost that is questioned by the auditor because of an audit finding." Questioned costs are described in detail in 2 CFR 200 Subpart F Audit Requirements.

4. Returning Interest Earned on Federal Funds

HHS, PMS – PSC has recently updated information addressing the return of interest earned from Federal grant drawdowns. Below is summary of this process, followed by information about how to obtain more details and who to contact regarding this notice. For non-interest refunds, please refer to the G5 refunds guidance or call the G5 Hotline at: (888) 336-8930.

1. The preferred method to return interest is through Automated Clearing House (ACH) Direct Deposit or Fedwire.

a. When returning interest through ACH Direct Deposit or Fedwire, grantees must include the following in their return transaction:

- PMS Account Number (PAN). NOTE: The PAN is the same series of alpha-numeric characters used for payment request purposes (e.g., C1234G1).
- PMS document number.
- The reason for the return (e.g., interest, part interest part other, etc.).
- An explanation stating that the refund is for interest payable to HHS, and the grant number(s) for which the interest was earned.

b. ED grantees are generally located and operate domestically and return interest domestically. Below is PSC ACH account information for interest returned domestically. For international ACH interest returned, account information is available at: [Returning Funds/Interest](#).

- PSC ACH Routing Number is: 051036706
- PSC DFI Accounting Number: 303000
- Bank Name: Credit Gateway - ACH Receiver
- Location: St. Paul, MN

c. Service charges may be incurred from a grantee's financial institution when a Fedwire to return interest is initiated. For FedWire returns, Fedwire account information is as follows:

- Fedwire Routing Number: 021030004
- Agency Location Code (ALC): 75010501
- Bank Name: Federal Reserve Bank
- Treas NYC/Funds Transfer Division
- Location: New York, NY

2. Interest may be returned by check using only the U.S. Postal Service; however, returning interest via check may take four to six weeks for processing before a check payment may be applied to the appropriate PMS account.

Interests returned by check are to be mailed to:

HHS Program Support Center
PO Box 979132
St. Louis, MO 63197

A brief statement explaining the nature of the return must be included.

To return interest on a grant not paid through the PMS, make the check payable to HHS , and include the following with the check:

- An explanation stating that the refund is for interest
- The name of the awarding agency
- The grant number(s) for which the interest was earned
- The return should be made payable to: U.S. Department of Health and Human Services

For detailed information about how to return interest, please visit the PSC Returning Funds/Interest page at: [Returning Funds/Interest](#)

Questions about any topic within this notice may be directed to the Education Program Contact found in Box 3 of the GAN issued by the Department.