

# A Second Look at the Final OMB Guidance for Federal Financial Assistance

May 15, 2024

## Speakers:



**Jeffrey Silber**, *Senior Director,  
Sponsored Financial Services,  
Cornell University  
Chair, COGR Board of Directors*



**Stephanie Endy**,  
*Assoc. VP for Research,  
Brown University  
CGA Committee Member*



**Twila Reighley**, *Assoc. Vice President for  
Research, Sponsored Programs,  
Michigan State University  
CGA Committee Member*



**Jeremy Forsberg**, *Assoc. Vice President,  
Research and Innovation, University of  
Texas Arlington  
CFC Committee Member*

## Moderators:



**Krystal Toups**  
*Director of Contracts &  
Grants Administration (COGR)*



**David Kennedy**  
*Director of Costing &  
Financial Compliance (COGR)*

**COGR**

# TODAY'S AGENDA

- A Quick History of the Guidance
- The Next 4+ Months: What to expect, COGR advocacy, and other thoughts
- Institutional Perspective on the Important Changes (section by section)
- Other Considerations
- Q&A

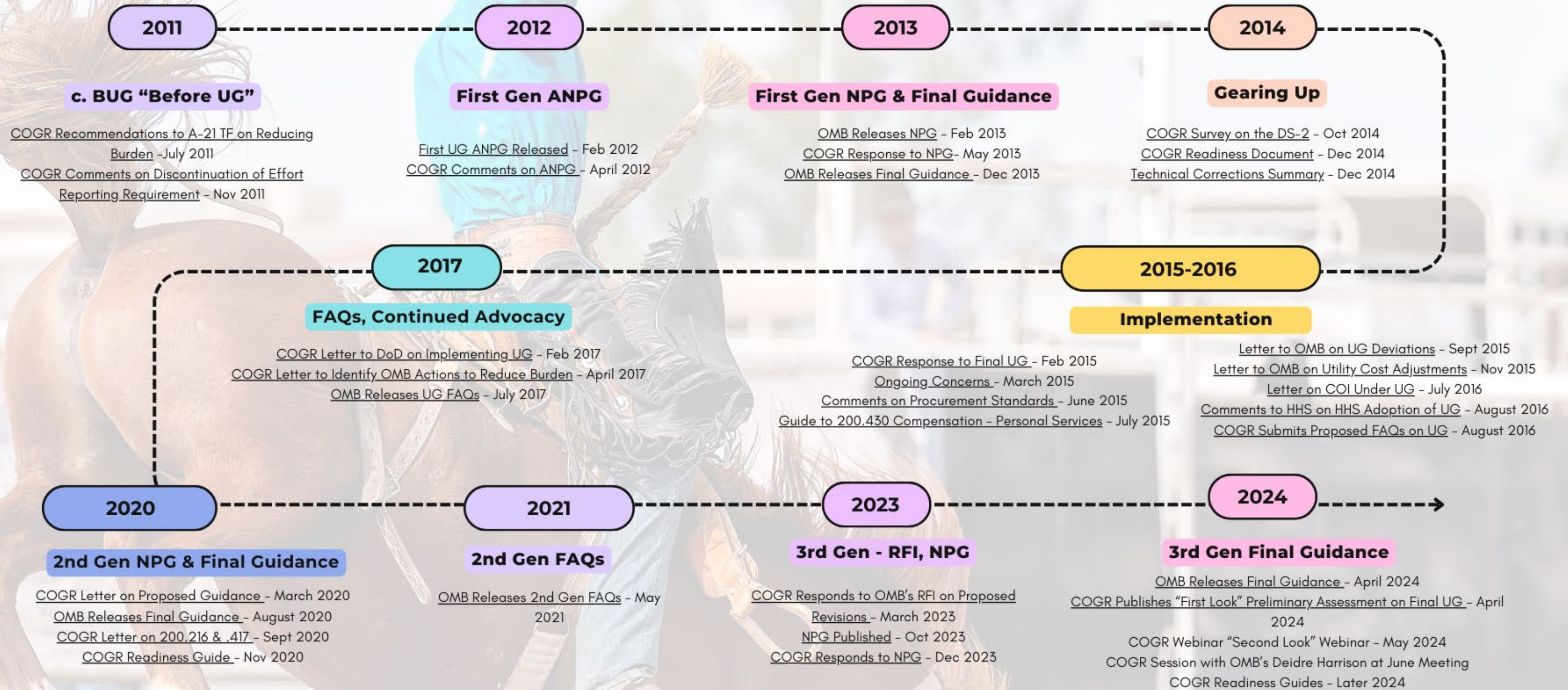
# Poll Question #1

## How much of the OMB Federal Financial Assistance have you read?

- A. All 13+ hours, 163 pages of the 3-column version. I'm ready!
- B. Half or more
- C. Almost half
- D. Among friends, I'm just getting started (there's a lot to get through)!



# OMB's Guidance for Federal Financial Assistance: Not COGR's First Rodeo



...and countless updates to the membership, COGR meeting sessions, listserv updates, ongoing conversations with OMB and implementing federal agencies, committee and workgroup discussions, etc.





## THE NEXT 4+ MONTHS

- [OMB Guidance for Federal Financial Assistance](#) released on April 22<sup>nd</sup> – includes Parts 1, 25, 170, 175, 180, 182, 183, 184, and 200 (Part 200 is the “Uniform Guidance”)
- Goes live on October 1, 2024
- “Red-line” and other resources at [COGR UG Resource Page](#)
- Agency plans (deviations) due to OMB by May 15
- COGR approach
  - [First Look, April 24<sup>th</sup>](#) (initial COGR observations)
  - Second Look, today’s webinar (institutional perspectives)
  - Third Look, June 6 @ COGR Meeting (OMB presentation)
  - Fourth Look, late summer/fall (COGR detailed assessment)

## THE NEXT 4+ MONTHS

- COGR approach (continued)
  - There still may be room for advocacy to OMB
    - > Implementation of F&A-related
    - > FAQs – old ones, new ones, etc.
    - > “Technical” corrections
    - > Items OMB has identified as “future”
  - COGR engagement with OMB, into the summer
  - And per previous slide, a COGR “Fourth Look”



COGR Webinar  
May 15, 2024

# Institutional Perspectives on the Important Changes (section by section)



## § 200.100 Purpose

*(a)(1)...~~Federal entities, as described in § 200.101. Federal awarding~~ agencies must not impose additional ~~or inconsistent~~ requirements, except as ~~provided~~ allowed in §§ 200.102 ~~and~~, 200.211...*

*(c) Cost principles. ...~~The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by statute.~~*

### Points to Consider:

- Fair Share
- Consistency
- Deviations (institutions should monitor for any agency specific deviations)



## § 200.110 Effective date

...(b) Existing negotiated indirect cost rates ~~(as of the publication date of the revisions to the guidance)~~ will remain in place until they expire. The effective date of changes to indirect cost rates must be based upon the date ~~that~~ a newly re-negotiated rate goes into effect for ~~a specific non-Federal entity's~~ the recipient's or subrecipient's fiscal year. Therefore, for indirect cost rates and cost allocation plans, the ~~revised Uniform Guidance revisions to this part~~ (as of the publication date for revisions to ~~the~~this guidance) become effective in generating proposals and negotiating a new rate (when the rate is re-negotiated).

### Points to Consider:

- Increased limits to Equipment Capitalization Threshold (\$5k up to \$10k) or MTDC for subawards (first \$25k to \$50k) require changes to your approved indirect cost rate agreement.
- CAS **cannot** change the new limits until (**earliest effective date the start of the entity's fiscal year on or after 10/1/2024**):
  1. the change is either made in a rate proposal and effective with the new rates negotiated (or)
  2. changed with an impact statement submitted with a rate extension request
- Pros and Cons to new limits
- When to include in proposal budgets
- State limitations, accounting system updates, researcher impact.

# Key New Limits

Item	Current	New
Single Audit Requirement (§§501)	\$750,000	\$1,000,000
Equipment sale proceeds retention where title not vested in grantee, and amount that may be retained for disposition costs (§§312(e)(1) and (e)(2))	\$5,000 \$500	\$10,000 \$1,000
Surplus supplies – amount that can be retained for future project use and amount that can be retained to cover disposition costs (§§314(a))	\$5,000 \$500	\$10,000 \$1,000
Fixed Amount Awards/Subawards (§§333)	SAT	\$500,000
Subaward MTDC Exclusion (§§1)	\$25,000	\$50,000
<i>De minimis</i> rate (§§414(f))	10%	15%
Equipment capitalization (maximum amount) (§§1)	\$5,000	\$10,000

\*You can implement on UG effective date, implement with your negotiated rate

# Mandatory Disclosures (200.113)

~~The non-Federal entity or~~ An applicant for, recipient, or subrecipient of a Federal award **must promptly disclose whenever, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations connection with the Federal award (including any activities or subawards thereunder), it has credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including found in Title 18 of the term and condition outlined in appendix XII to this part are United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729–3733). The disclosure must be made in writing to the Federal agency, the agency’s Office of Inspector General, and pass-through entity (if applicable). Recipients and subrecipients are also** required to report ~~certain, criminal, or administrative proceedings to SAM (currently FAPHS).~~ matters related to recipient integrity and performance in accordance with Appendix XII of this part. Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

## Points to Consider:

- Institutional process/policies to meet the requirement
- OMB intent to align disclosure requirements with FAR clause (See [48 CFR 3.1004](#) and [52.203-13](#)) and “Credible evidence” meaning with FAR (see [73 FR 67064](#) )



# Fixed Amount Awards/Subawards

## 1 Step Forward, **Many Steps back**

- 200.400(g) clarifies unexpended funds are NOT considered profit.
- Per 200.101 (b)(4)(ii): **Added following Cost Principles to now apply:** 200.403 (Factors Affecting Allowability of Costs) 200.404 (Reasonable Costs) 200.405 (Allocation of Costs) and .407(d) (Prior Approval for Program or Budget Revision). **And these records are now subject to audit.**
- 200.333 Fixed Amount Awards – Still require prior written approval (**originally was removed**) by Federal Agency. **Raised limit up to \$500,000 from SAT (originally was eliminated entirely).**
- 200.201 (b)(1) replaced **“adequate”** with **“accurate** cost, historical or unit pricing data to establish a fixed amount budget...” (still based on “reasonable estimate of actual cost”) and added federal funding is determined by **“subrecipient’s proposal, available pricing data, and subpart E.”**
- Replaced **“there is no governmental review”** of actual costs incurred by recipient with **“There is no expected routine monitoring of actual costs incurred... Therefore, no financial reporting is required.”**

# Fixed Amount Awards/Subawards

- 200.201 (b)(2) Added back fixed amount award must not be used in programs that require cost sharing (**originally was removed**)
- 200.201 (b)(3) Added requirements of 200.307 (Program Income) do not apply to fixed amount awards unless specified in the Federal award.
- 200.201 (b)(4) At end of fixed amount award, must certify in writing that project was completed ~~“or the level of effort was expended”~~ **“as agreed to in Federal Award or identify those activities not completed, and that all expenditures were incurred in accordance with 200.403.”**
- **200.201 (b)(6) Added 200.308(f)(1-3,6-8,10) and 200.333: Prior approval for changes in Scope, Key personnel (specified by name or position), PI disengagement of more than 3 months or 25% reduction in time, Subaward activities not proposed in the application and approved in the Federal award (NEW) – but clarifies a change in subrecipient does not require prior approval unless specified in award/subaward, No-cost extension**

## Points to Consider:

- Significant departure from performance based accountability. Focuses on low value paperwork and increases risk of audit findings. Burden to oversee fixed amount subawards are significantly increased.
- Impact to facilitate research projects, participation, and performance needs with foreign, private, or smaller institutions.

## § 200.306 Cost sharing

(a) Now distinguishes Voluntary Committed Cost sharing is not expected for “Federal research grants” (vs. all grants). It “may” (vs. “cannot”) not be used as a factor in the merit review of proposals for “Federal research grants” (vs. all proposals). If it is used for other “Federal financial assistance programs” the NOFO must specify how the applicant’s proposed cost sharing will be considered.

(k) For IHEs, Voluntary Committed Cost Sharing (VUCS) “should not be included in the organized research base for computing the indirect cost rate or reflected in any allocation of indirect costs. VUCS includes faculty-donated additional time above that agreed to as part of the award.” Still includes: “See OMB memorandum M-01-06, dated 1/5/2001, Clarification of OMB A-21 Treatment of VUCS...”

Technical Correction? OMB’s response to .306(k) reviewer comments: “OMB also agrees with commenters that voluntary uncommitted cost sharing consists of more than just faculty donated time and clarified the section to indicate that it includes, but is not limited to, faculty donated time.”



# § 200.306 Cost sharing

## Points to Consider:

- Federal Agency added flexibility for including Voluntary Committed Cost Sharing in “other financial assistance programs” and NOFO instructions.
- VUCS for non-IHEs? Requested change but not accepted.
- VUCS outside of “faculty donated time”
- VUCS [Federal \(DOD\) Definition](#) not in the Guidance:
  - § 1108.405 Voluntary (committed or uncommitted) cost sharing.
    - (a) Voluntary cost sharing means cost sharing that an entity pledges voluntarily in its application (i.e., not due to a stated cost-sharing requirement in the notice of funding opportunity to which the entity's application responds).
    - (b) Voluntary committed cost sharing means voluntary cost sharing that a DoD Component accepts through inclusion in the approved budget for the project or program and as a binding requirement of the terms and conditions of the award made to the entity in response to its application.
    - (c) Voluntary uncommitted cost sharing means voluntary cost sharing that does not meet the criteria in paragraph (b) of this section.

# § 200.308 Revision of budget and program plans

*(f)(2) Change in ~~a key person specified personnel~~ (including employees and **contractors**) that are identified by name **or position** in the ~~application or the~~ Federal award.*

*(f)(6) . . . A change of subrecipient only requires prior approval if the Federal agency or pass-through entity includes the requirement in the terms and conditions of the Federal award. In general, a Federal agency or pass-through entity should not require prior approval of a change of subrecipient unless the inclusion was a determining factor in the merit review or eligibility process.*

## Points to Consider:

- Track “position” too. Inclusion of contractors? Maybe since terms are also applicable to construction awards. Application crossed out/Award references application? Stated intent to reduce burden, not logical to consider app detail, e.g., graduate students.
- Implications of collaborative science and bullet (f)(6) TBD

## § 200.313 Equipment

§1 Equipment means ... a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the recipient or subrecipient for financial statement purposes, or \$10,000.

...(d)(3)...The recipient or subrecipient must notify the Federal agency or pass-through entity of any loss, damage, or theft of equipment that will have an impact on the program.

### Points to Consider:

- Threshold implementation
  - Considerations for equipment depreciation
  - State requirements
- New reporting requirements (to Federal agency or pass-through) for any loss, damage, or theft (200.313 (d)(3))
- Socialization of the any threshold changes with campus



## Poll Question #2

**What is your current equipment capitalization threshold?**

- A.  $\leq$  \$1000
- B.  $>$  \$1000,  $\leq$  \$2500
- C.  $>$  \$2500,  $\leq$  \$5000
- D. Other?

## Poll Question #3

**Will your institution pursue a new threshold when possible?**

- A. Yes, \$10,000
- B. Yes, between \$5,001 and \$9,999
- C. Unsure. We have not yet decided
- D. No. We are limited by state law.
- E. No. We will stay where we are.

# § 200.332 Requirements for pass-through entities

*All A pass-through ~~entities~~ entity must:*

*...~~(c) Consider imposing~~(d) If appropriate, consider implementing specific subaward conditions upon a subrecipient if appropriate in a subaward as described in § 200.208 and notify the Federal agency of the specific conditions.*

## Points to Consider:

- Institutional process/policies to meet the requirement
  - Way to identify need and implement, which includes both subrecipient negotiation and agency notification.
  - Watch whether others propose agreements to your institution with extra terms.



# § 200.403 Factors affecting allowability of costs

*(h) ~~Cost~~ **Administrative closeout costs** may be incurred until the due date of the final report(s). If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the Federal agency. All other costs must be incurred during the approved budget period.*

## Points to Consider:

- What is intent of “administrative closeout costs”? Clues in § 200.461(b)(3) Research results, § 200.472(b) Examples: “Salaries of personnel preparing final reports, publication and printing costs, costs associated with the disposition of equipment and property, and related indirect costs”
- What processes in place to identify and liquidate all closeout costs before submitting final report(s)? Consider potential impact to end dates in system for expenditures.

# § 200.419 Cost accounting standards

DS-2 Eliminated for purposes of 2 CFR 200. Must follow 48 CFR 9905.501 (estimating, accumulating, reporting), 9905.502 (direct/indirect), 9905.505 (unallowables), and 9905.506 (cost accounting period) if most recent fiscal year awards > \$50M.

Institutions with contracts that require full CAS coverage under FAR 52.230-5, i.e. not eligible for exemption or modified CAS coverage may wish to retain and maintain their DS-2 for this purpose.

## Points to Consider:

- What does it actually mean for institutions?
  - Only institutions receiving more than \$50M in awards per year actually needed a DS-2.
  - Can stop on implementation if not otherwise needed
  - May be required for CAS-covered contracts under the FAR
  - Basic standards must still be followed.

## Poll Question #4

**If your institution has a Disclosure Statement (DS-2) do you have CAS covered contracts that will continue to require it?**

- A. Yes
- B. No
- C. Unsure



# § 200.431—Compensation—Fringe Benefits

*...(b)(3)(i) When a ~~non-Federal entity~~ recipient or subrecipient uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment— and must be allocated as a general administrative expense to all activities.*

## Points to Consider:

- Vacation Buy Out
- Cost implications
- System implications

## Poll Question #5

**What is the accounting basis for charging employee leave time?**

- A. Cash (e.g. charge to awards)
- B. Accrual (e.g. charge to benefit pool)
- C. Combination (e.g. varies, perhaps according to leave type)
- D. Unsure

# Other Considerations

## Institutional Policies/Procedures

- Review/Inventory of institutional policies and procedures (ex., procurement, subrecipient monitoring, equipment/supplies, compensation, etc.)

## Applications and Awards

- Application budgets
- Subawards
- Research T&Cs

## Agency Implementations

- [M-24-11 Implementation Memorandum](#) (federal agencies plans due 5/15/24)
  - Updated NOFOs and Research T&Cs



## Poll Question #6

**What is your institution's implementation strategy?**

- A. We plan to form a multi-departmental workgroup/committee
- B. A primary office will take the lead to coordinate the implementation across multiple departments
- C. Not sure yet.
- D. Other (tell us in chat!)

## Poll Question #7

**The primary office leading (or will lead) the implementation of the Federal Financial Assistance at your institution:**

- A. Pre-award Office
- B. Post-award Office / Financial Office
- C. Research Office
- D. Research Compliance Office
- E. Other (tell us in the chat!)

# Frequently Asked Questions

The current [FAQs are dated May 3, 2021](#) and are applicable to the 2020 version of the Uniform Guidance. Below is a broad overview of these. While several FAQs were incorporated into the main text of the Final OMB Guidance, many were not. Consequently, COGR will advocate for robust FAQs to be available before the October 1, 2024 implementation date.

- General, Q-1 – Q-23 (includes effective dates, conflict of interest, and other implementation)
- UEI and SAM, Q-24 – Q-30
- FFATA, Q-31 – Q-32
- Fixed amount awards and subawards, Q-33 – Q-38
- Pre-Award Requirements, Q-39 – Q-66 (includes prohibition on covered telecom)
- Post-Award Requirements, Q-67 – Q-94 (includes cost sharing, closeout, subrecipient monitoring, procurement/sole-source)
- Cost Principles, Q-95 – Q-110 (includes unused leave, software, leases)
- Indirect, F&A, Audit, Q-111 – Q-146 (includes de minimis, negotiated rates)