Advance Questions for Office of Management and Budget
Thursday June 6, 2024

1) The threshold changes are positive. However, a given institution could have predetermined F&A cost rates through FY28. This is a concern since the institution may not be able to implement the threshold changes until new F&A cost rates are established.

2) Can you provide information on whether OMB plans to release any additional implementation memos or notices for the final guidance? What sort of relevance (if any) do the existing FAQs, memorandums, etc. have to the final guidance – Are they obsolete?

3) ***200.414(c)(2) Indirect costs.*** The Federal agency must notify OMB of any approved deviations. The recipient or subrecipient may notify OMB of any disputes with Federal agencies regarding the application of a federally negotiated indirect cost rate.

   This change is a positive. Can OMB clarify the practical application of this change? For example, if an institution and CAS have not been able to finalize new F&A cost rates for more than 12 months, can OMB be engaged as an impartial arbiter to facilitate the process?

4) ***200.414(f) Indirect costs*. States** "... subrecipients are not required to use the *de minimis* rate."

   Does this mean that cognizant agencies will, on request, negotiate rates for subrecipients who do not have them? Most pass-through entities lack the expertise and other resources to act on behalf of the government to negotiate an indirect cost rate for a subawardee.

5) ***200.431(b)(3)(i) Leave.*** When a 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.

   a. What was the rationale for this change?

b. For IHEs that use the cash basis, there was a “break-even” component to this methodology over time. Under the new requirement, IHEs are penalized and can no longer recover these costs (due to the administrative cap). At a minimum, there should be a transition to this new policy and an implementation date in 2025 or 2026. This is reinforced by the fact that it will create a new workload burden on CAS if leave rates have to be established by October 1, 2024. Will OMB consider extending the implementation date for this change within this context?
c. Is the expectation that all IHEs (all recipients), now charge leave through a fringe benefit rate?
d. To clarify, if an institution already has an established leave rate as part of their fringe benefit rate, they can continue to operate as they have been operating?

6) ***200.100(c) Cost principles.*** Subpart E establishes principles for determining allowable costs incurred by recipients and subrecipients under Federal awards. These principles are for the purpose of cost determination. They do not address the circumstances nor dictate the extent of Federal Government funding of a particular program or project. ~~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.~~

   a. What was the rationale for deleting this important text?
   b. Can federal entities (e.g., NIH, NSF, CAS, etc.) work with COGR to restore this important principle?

7) **200.1 Definitions.** Changed the definitions for *Equipment* (increasing threshold to $10K) and for *Modified Total Direct Costs* (incorporating new equipment definition and increasing subaward inclusion to the first $50K); are these new thresholds therefore mandatory for grantees to use (once approved by the Federal cognizant agency in a rate agreement), or can grantees choose to use the lower threshold dollar amounts in their rate agreements in perpetuity?

8) **200.332(d) Requirements for Pass-Through Entities.** “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.”

   What’s the scope? Is the intent for any level of conditions specific to a single subaward be communicated to the Federal granting agency? If a specific condition is later released, must a grantee notify the Federal agency of that action as well?

9) ***200.100(a)(1) Purpose.*** This part establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards. Federal agencies must not impose additional ~~or inconsistent~~ requirements, except as allowed in §§ 200.102, 200.211, or unless specifically required by Federal statute, regulation, or Executive order.

   In addition, 200.102 Exceptions, with the new addition of:

(b) *Federal agency exceptions.* Federal agencies may allow exceptions to requirements of this part on a case-by-case basis for individual Federal awards, recipients, or subrecipients, except when the exceptions are prohibited by law or other approval is expressly required by this part.

Previously Federal Agencies had to request OMB approval to make deviations, and that was limited to only (now .201 subpart d): "request exceptions in support of innovative program designs that apply a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance."

Although we recognize 200.101 with the following added statement: Federal agencies **should** apply the requirements to all recipients in a consistent and equitable manner to the extent permitted within applicable statutes, regulations, and policies. The overall impact allows federal agencies to have unilateral authority to deviate compliance standards from the guidance. This is already problematic from the lack of uniformity in the implementation of the Administrative Requirements, but when applied to the Cost Principles, it can lead towards institutional and government waste with little to no value in research performance or government oversight of funds. For example, some DOD agencies will try to apply an **inconsistent** standard for documenting the after-the-fact review requirement of salary charges by requiring faculty to complete time/hourly time sheets (rather than the more general requirements in 200.430 for documentation). Of note, this is inconsistent, but may not be viewed as "additional". By policy, faculty are not hourly employees and this would force an accounting inconsistency, be very costly to create exceptions in documentation, require multiple sets of internal controls to the same regulatory requirement, and further costly customizations of accounting systems.

1) What was the rationale for deleting this important text?
2) Can federal entities (e.g., NIH, NSF, CAS, etc.) work with COGR to restore this important principle?

10) *Fixed Amount Awards*. There are several revisions in the final guidance that significantly diminish advantages and instead increase burden for fixed amount awards. Examples include:

200.100 (b) Applicability to Federal financial assistance:

~~(1)~~ Subpart E (Cost Principles) applies to grants and cooperative agreements, but does not apply to the following:

(i) Food commodities provided through grants and cooperative agreements;

(ii) Fixed amount awards, except for §§ 200.400(g), 200.402 through 200.405, and 200.407(d), which do apply;

200.201 (b)(4) At the end of a fixed amount award, the recipient or subrecipient must certify in writing to the Federal agency or pass-through entity that the

project was completed as agreed to in the Federal award, or identify those activities that were not completed, and that all expenditures were incurred in accordance with § 200.403.

Other references include:

- 200.201 (b)(1) replaced "adequate" with "accurate cost, historical or unit pricing data to establish a fixed amount budget…" 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..."
- 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 specific in the Federal award.
- 200.201 (b)(6) Added 200.308(f)(1-3,6-8,10) and 200.333: Prior approval for changes in Scope, Key personnel, 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), No-cost extension
- 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).
- 200.400(g) clarifies unexpended funds are not considered profit.

1) Can you discuss the intent behind increased provisions?
2) Can federal entities (e.g., OMB, NIH, NSF, etc.) work with COGR to restore flexibility and advantages to fixed-amount awards?

Out of Curiosity: Will you still refer to OMB document as the "UG" or something else now that it was named, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"?