Uniform Guidance: What we Know So Far and Future Plans

OSP Forum – Revised!
September 19, 2014
## Uniform Guidance Team

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What is Uniform Guidance?

**Uniform Guidance** (UG) is a combined, “simplified” version of 8 circulars

- **Subpart A:**
  - Acronyms and Definitions
- **Subpart B:**
  - General Provisions
- **Subpart C:**
  - Pre-Award Requirements & Contents of Federal Awards
- **Subpart D:**
  - Post Federal Award Requirements
- **Subpart E:**
  - Cost Principles
- **Subpart F:**
  - Audit Requirements
- **Appendices:**
  - Funding opportunities, F&A, Etc.

OSP Forum
9/19/14
Key things to know about UG

Replaces existing circulars:

- 2 CFR 200
- A-21
- A-110
- A-133

Applies to:
“Non-federal Entities”

- Institutions of Higher Education (IHE)
- States
- Non-Profits
- Tribal Nations

Effective Date:
December 2014

Guidance for Federal and Non-Federal Entities that applies to:

- Grants
- Co-op Agrmnts
- Contracts

Federal contracts follow the FAR, plus UG for cost principles only

OSP Forum
9/19/14
“To deliver on the promise of a 21st-Century government that is more efficient, effective and transparent, the Office of Management and Budget (OMB) is streamlining the Federal government’s guidance on Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards...This reform of OMB guidance will reduce administrative burden for non-Federal entities receiving Federal awards while reducing the risk of waste, fraud and abuse.”
Uniform Guidance Themes

• MANY IMPROVEMENTS – lots of good things that we have asked for
• Making the most efficient use of federal funds
• Potentially more flexibility in the direct cost category as long as purchases meet the same direct cost standard (allowable, allocable, reasonable), and follow our Internal Controls
  – “Internal Controls” references throughout the document; need clear roles and responsibilities; need monitoring to ensure compliance
• Closeouts – not new, but more pressure from the agencies
  – in 90 days, rumors that agencies will provide 120 days!
• Waiting for the agencies to issue new policies – most not before 12/2014
• What do you need to do now? Listen and learn, but no changes to policies or practices yet.
Federal agencies must submit draft implementing regulations to OMB by 6/26/14.

Federal agencies coordinate under OMB’s guidance to issue regulations or OMB-reviewed guidance in unison.

Federal agencies must implement the policies and procedures applicable to Federal awards by publishing a regulation to be effective by 12/26/14.

Audit Requirements will be effective for fiscal years beginning in FY16.

• Some awards will remain under old guidelines
• First F&A and EB rates under the UG in FY16
• First audits under the UG in FY16
The Good, The Bad, and the Wait and See

What the guidance says and what (we think) it means

Remember, much depends on the agency implementations, which will remain unknown for some time...
Pre-Award - Good!

**Standard Information**
- Funding Opportunities need to include standard info – not a change but good to know

**Prescribed Elements**
- Prescribed format, review criteria, cost share requirements, due dates, deviations in standard terms and conditions, additional reports

**60 Days Lead Time**
- Generally, 60 days lead time for funding announcements, unless shorter notice is specifically approved by agency head – minimum of 30 days lead time
Pre-Award - Good!

**Pre-Approved Terms & Conditions**
- Agencies must use pre-approved terms and conditions, or describe deviations at proposal stage.

**Approval of Exceptions**
- Any exception to terms and conditions (e.g. limits on F&A, additional reporting) must be approved by agency head and posted on the OMB website.

**Tracking of Exceptions**
- OMB will be tracking exceptions to policies, evaluating effectiveness of the UG through metrics.
Research Terms and Conditions – Wait and See

• Current RTCs expire December 26, 2014, includes:

  - Pre-award costs up to 90 days before start date
  - One time 12 month cost extension
  - Re-budgeting costs between line items of up to 10% of total award
  - Purchases of equipment, foreign travel, renovations < $25K, between direct and indirect costs
  - Reducing effort of the PI by up to 25%

• NSF and NIH leading a group top review RTC – no timeline provided
Subrecipient Monitoring - +/-

F&A improvements
- F&A rate agreement must be honored if one exists
- Subrecipients (e.g., foreign, small businesses, school districts, etc.) without a negotiated rate can get an automatic 10% MTDC F&A rate

Increased burden for vendor vs. subrecipient classification
- Prime recipient makes the determination between Subrecipient vs. Professional Services / Vendor and we need to document how we made the decision each time
Subrecipient Monitoring - +/-

Fully documented risk assessment for each sub prior to issuance

New obligation to be able to document that MIT (the PI!) received and reviewed the subrecipient’s performance and financial reports

- How will we monitor / implement this?
Cost Share – Good!

- Voluntary committed cost sharing is not expected, could be basis for exclusion (NSF)
- Cost sharing requirements must be included in the funding announcement
- Cost sharing may not be used as a factor in reviewing proposals or as merit criteria
Changes in F&A Cost Rulings – Good!

Federal agencies are expected to honor negotiated F&A rates

- Class or single award exceptions only when required by Federal statute or regulation, or approved by an agency head or delegate
- Exceptions must be reported to OMB
- Policies, procedures, and general decision-making criteria for making exceptions must be published

Participant Support Costs

- Must be excluded from F&A (similar to NSF model)
Award Notices – Good!

All federal awards must include clear terms and conditions (for the entire award period), including:

- Reporting requirements
- Format
- Due dates
- Any deviations from agency policy

Provides a basis for objecting when agency layers on additional requirements (e.g. prior approvals, reporting) during the life of an award
Award Terms – Good!

• Recognition that technology allows a PI to be away from campus and still be engaged in the project
  – “Disengagement” from the project for more than three months, rather than “absence” from the project...
Document Retention – Good!

- 200.335 – Electronic Records states that there is no need to create a paper record for a record that was originally electronic and cannot be altered.
- May convert paper to electronic provided the records are:
  - Subject to periodic quality control reviews
  - Provide reasonable safeguards against alteration, and
  - Remain readable
- Still a conflict between UG and FAR, which states that paper records must be kept for a year after paper records are converted to an electronic format.
Direct Costs – Good!

Publication Costs (Page Charges)

- Page charges are still allowable costs after award end date but before closeout (in essence, adoption of the NSF model); costs must be consistently charged as a direct cost

Computing Devices

- Considered supply costs (if it’s under $5K); can be charged as a direct cost when the devices are “essential and allocable to a project”, but not “solely dedicated” to the performance of the award; need standards for documentation
Admin and Clerical Salaries

- May be direct charged when services provided are "integral" to the award, specifically identified with the activity, explicitly included in the budget or have prior written approval of the Federal agency; eliminated "major project" reference
- Developing a definition for "integral"; must still be approved by sponsor and allowable, allocable and reasonable; consistently treated at MIT
Purchasing – Bad! – But we Have Some Time

All procurement between the micro-purchase level ($3K) and the Simplified Acquisition Threshold ($150K) must be competitive – how will we implement?

- Cost / price analysis for purchases over $150K – no change

Partner vendors will meet the new requirements for competition

The UG also stresses Small and Minority Owned Business issues; More work needed to show competitive pricing and compliance with small business purchasing

New obligation to notify federal sponsors when we have a potential COI for procurement – when PIs want to purchase from a company in which they have a financial interest
Internal Controls - Continuous Improvement

• Requires us to have effective internal controls and then communicate and follow them
• Stronger audit scrutiny
• Emphasis on documentation of policies and transactions
• Expect efforts to limit cost transfers and late salary transfers.

• Federal government moving more towards a Sarbanes-Oxley model for financial compliance (COSO and Federal Green Book as examples of new standards)
Spending at the End of Award – More Scrutiny

No more than $5K in M&S remaining at the end of the grant

Implies closer scrutiny on overall spending in the last 6 months of the award – need for closer financial monitoring
Performance Reporting – Get Ready...

Continued pressure from agencies to relate research progress to financial information and other “data” (e.g. number of students, publications, patents)

Guidance provides for research sponsors to use standard RPPR format – depends on agency implementation (NSF is on board!)
I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).”
Closeouts – More Pressure on 90 Days

No change in federal requirements, but agencies are becoming more stringent

All reports are due “no later than 90 calendar days after the end date of the period of performance”

Current events:
• Pressure on agencies - OMB July 2012 Controller Alert
• New sub-accounting rules – NSF, NIH, others to come
• No cash draws on awards after 90 days, except in exceptional cases, as approved by the agency
• Applies to all reports – get your PIs ready!!
• Rumors that the agencies will give us 120 days?
Closeouts

Barriers to timely closeout

• DLC actions (balancing the accounts, awaiting PI input)
• Subaward actions – awaiting final invoices
  • 1/3 of subs invoices paid after 60 days; and we’re late with these, too!
• Sponsor actions
• Other VPF actions

Risk: MIT won’t get paid
Top Issues to be Aware Of

- Many good things in the UG
- Still waiting for agencies to weigh in
- Documenting and monitoring internal controls where we have gaps
- Price competition is key – figuring out a game plan – looking for volunteers!
- Closeouts – looking for volunteers!
Next Steps

- Working Group – uniform.guidance.team@mit.edu
- Web page
- Communication to senior leadership
- Policy changes as needed
- Training for the MIT Community
  - Timing is an issue – dependent on agency implementations
- How can we communicate with you?