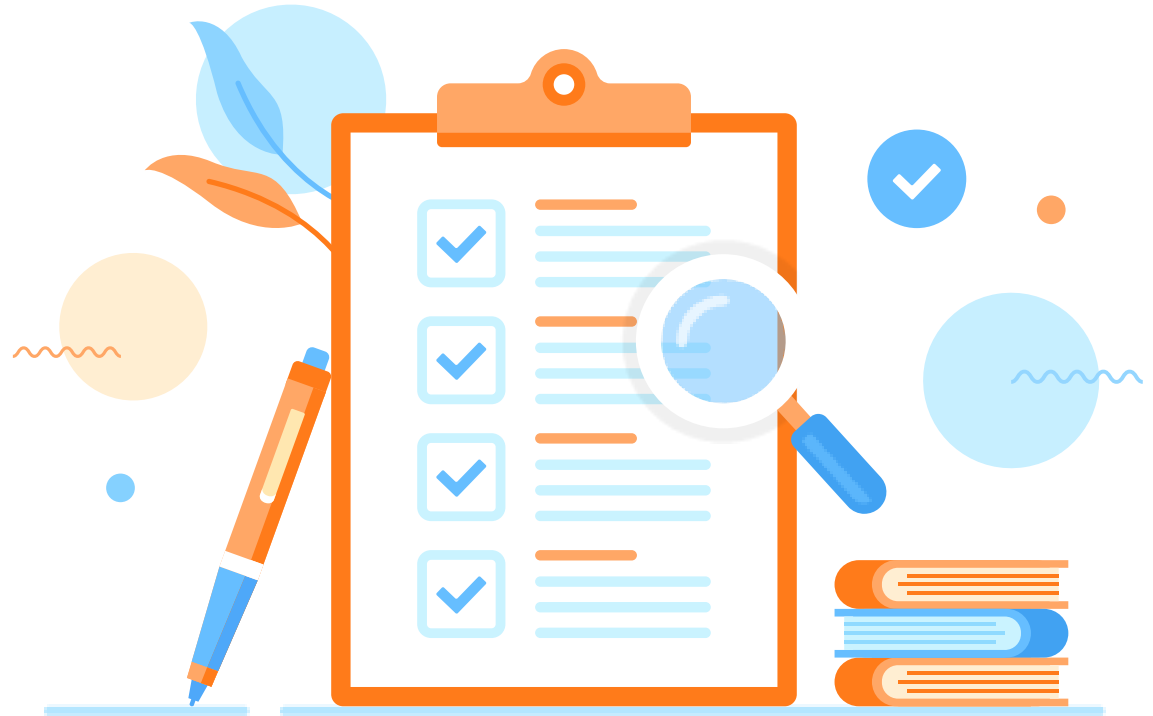




# Uniform Guidance: The States and Changes

March 20, 2025





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- Definitions + General Provisions
- Pre / Post Award Administrative Requirements
- Cost Principles
  - De minimis and Negotiated Rates
  - Specific Items of Cost
- Single Audit

# Background

- First took effect December 26, 2013
- OMB **was** required to review UG every 5 years (2 CFR § 200.109)
  - First significant revisions took effect November 12, 2020
    - Not adopted by HHS
- CAPLAW, NCAP + NASCSP submitted comments on proposed revisions in 2024

# Background

Four main objectives of the 2024 revisions:

1. Incorporate statutory requirements and administration priorities;
2. Reduce federal agency and recipient burden;
3. Clarify differing interpretations; and
4. Rewrite sections in plain language, improving flow, and addressing inconsistent use of terms

# New Rules

- Effective date **October 1, 2024**
  - Effective for all federal awards issued on or after that date
- Federal agencies directed to submit implementation plans to OMB by May 15, 2024



# New Rules

- HHS also adopted 2 CFR Part 200
  - Rescinded 45 CFR Part 75
- Full adoption effective **October 1, 2025**
- 8 provisions effective immediately:
  - De minimis rate of 15% of MTDC
  - Closeout provisions (adopted by HHS in Sept. 2023)
  - New thresholds (micro-purchase, simplified acquisition, MTDC, equipment, supply, fixed amount awards, audit)



# New Rules

- Preamble to the Final Rule
- Replaced “non-federal entity” with “recipient” and/or “subrecipient”
  - **EXCEPT** in Subpart F – Single Audit
- A **LOT** of language is moved around/streamlined/restructured
  - No policy change intended



# Uniform Guidance Overview

<b>Subpart A</b>	Acronyms and Definitions
<b>Subpart B</b>	General Provisions
<b>Subpart C</b>	Pre-Award Requirement and Contents of Federal Award
<b>Subpart D</b>	Post-Federal Award Requirements
<b>Subpart E</b>	Cost Principles
<b>Subpart F</b>	Audit Requirements
<b>Appendices</b>	IV (Nonprofit CAAs); V (Public CAAs)

# UG Provisions that Apply to CSBG

- The following UG provisions apply to all block grants, including CSBG:
  - **Subpart A**  
(Acronyms & Definitions)
  - **Subpart B**  
(General Provisions)
  - **Subpart F** (Audit Requirements)
  - **Certain provisions of Subparts C and D**
    - § 200.203 – Public notice/CFDA
    - § 200.216 – Prohibition on certain telecoms/video equipment and services
    - § 200.331 – Subrecipient & contractor determinations
    - § 200.332 – Pass-through entities
    - § 200.333 – Fixed amount subawards
- **Additionally:** Subpart E, Cost Principles, applies to CSBG because the federal CSBG Act, the authorizing statute (42 U.S.C. § 9916(a)(1)(B)), specifically requires it

# Intro to Subtitle A

## § 1.231 Severability

- **[NEW]** provisions of UG are separate and severable
  - If any provision held invalid or unenforceable, the rest remains in effect.
  - Potential impacts for: § 200.300 (Statutory and national policy requirements); § 200.303 (Internal controls); § 200.318 (General procurement); § 200.319 (Competition);



# **DEFINITIONS + GENERAL PROVISIONS**

# Subpart A: Definitions

## § 200.1 Budget Period

- **[CLARIFIED]** that recipients and subrecipients are authorized to “*incur financial obligations of the funds awarded*” during the budget period

# Subpart A: Definitions

## § 200.1 Cost Sharing

- **[MODIFIED]** by removing “matching” as part of the defined term and adding language to explain that cost sharing includes matching
  - Noted that matching refers to required levels of cost share that must be provided.

# Subpart A: Definitions

## § 200.1 Equipment

- **[MODIFIED]** threshold used to determine if tangible personal property is equipment so it is now \$10,000
  - Analysis is that personal property is equipment if it has (1) a useful life of more than one year and (2) 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.

# Subpart A: Definitions

## § 200.1 Financial Obligation

- **[NEW]** “orders placed for property and services, contracts and subawards made, and similar transactions that require payment by a recipient or subrecipient under a Federal award that will result in expenditures by a recipient or subrecipient under a Federal award.”
  - Clarifies when a financial obligation occurs
  - Recognizes expenditures are not always contemporaneous with a financial obligation



# Subpart A: Definitions

## § 200.1 Improper Payments

- **[MODIFIED]** language to focus on when payments are improper with a list of such payments.
  - e.g., payments to an ineligible recipient, duplicate payments, payment for good or service not received except as authorized by law, payments not authorized by law.
- Moved clarification that “questioned costs” are not considered improper payments until transaction completely reviewed to *Question Cost* definition

# Subpart A: Definitions

## § 200.1 Modified Total Direct Costs (MTDC)

- **[MODIFIED]** to increase the amount of each subaward that may be included in the MTDC base to “up to the first \$50,000”
  - Noted that subcontracts are not included

# Subpart A: New Definitions

## § 200.1 Participant

- **[NEW]** “generally means an individual participating in or attending program activities under a Federal award, such as trainings or conferences, but who is not responsible for implementation of the Federal award...”
  - Clarifies that a participant is **not** developing or delivering the program
  - Provides examples of participants

# Subpart A: Definitions

## § 200.1 Prior Approval

- **[NEW]** “the written approval obtained in advance by an authorized official of a Federal agency or pass-through entity of certain costs or programmatic decisions”
  - Notes in the preamble when “after-the-fact approval” may occur but does not add language

# Subpart A: Definitions

## § 200.1 Supply

- **[MODIFIED]** threshold used to determine if a computing device is a supply is now \$10,000
  - Analysis is that it is a supply if the acquisition cost of the computing device is the lesser of:
    - the capitalization level established by the recipient or subrecipient for financial statement purposes, **OR**
    - \$10,000, regardless of length of its useful life.

# Subpart B: General Provisions

## § 200.100 Purpose

- **[MODIFIED]** to remove language that federal agencies are required to bear their fair share of the benefit received from a cost
  - Cost principles speak to this concept so no need to state again here
  - Language did not require agencies to take specific actions
  - Removal **in no way** indicates to the contrary

# Subpart B: General Provisions

## § 200.113 Mandatory Disclosures


- **[MODIFIED]** to replace threshold of reporting “violations” of criminal law in a timely manner with reporting:
  - “Credible evidence” of the commission of a violation of criminal law involving fraud, conflict of interest, bribery or gratuity violations
  - “Promptly”
  - “In connection” with a Federal award including subawards
  - “To the Federal Agency, Office of Inspector General and pass-through entity (if applicable)” and “in writing”

# Subpart B: General Provisions

## § 200.113 Mandatory Disclosures

- **[MODIFIED]** language is intended to:
  - Further align with FAR disclosure requirements
  - Not require complex investigation but rather the taking of reasonable steps to determine if evidence is credible
  - Not trigger an open-ended investigation
  - Emphasize that there must be a nexus to the federal award, in recognition of the broadness of the requirement





# **PRE / POST AWARD ADMINISTRATIVE REQUIREMENTS**

# Subpart C: Pre-Award Requirements

## § 200.204 Notices of funding opportunities

- **[MODIFIED]** NOFO guidance to encourage Federal agencies to make it more accessible and comprehensible.
  - Encourages plain language and permits pre-application technical assistance
  - Adds executive summary requirement
  - Includes changes in the updated NOFO form in Appendix I to Part 200.

# Subpart C: Pre-Award Requirements

## § 200.215 Never contract with the enemy

- **[CLARIFIED]** subrecipients are subject to the regulations implementing Never Contract with the Enemy

# Subpart C: Pre-Award Requirements

## § 200.216 Telecommunications + surveillance equipment or services

- **[NEW in 2020]** Prohibited recipients and subrecipients from using funds to procure/obtain covered telecoms equipment or services
- **[CLARIFIED]** Emphasized the prohibition against the purchasing and procurement of covered equipment.
  - Prohibition still applies to program income
  - Opted not to include clarifying language that could be construed to impose "use" restriction on recipients and subrecipients

# Subpart C: Pre-Award Requirements

## § 200.217 Whistleblower protections

- **[NEW]** protections for whistleblowers
  - Covers disclosures relating to a Federal contract or grant
  - Employee must “reasonably believe” there is evidence of gross mismanagement, gross waste, abuse of authority, a substantial and specific danger to public health or safety, or a violation of law, rules, or regulations.
  - Must inform employees in writing employee whistleblower rights and protections

# Subpart D: Post-Award Requirements

## § 200.307 Program income

- **[CLARIFIED]** that program income can be used to pay for allowable closeout costs.
  - Otherwise, program income is restricted to use only within the period of performance

# Subpart D: Post-Award Requirements

## § 200.308(f)(6) Revision of budget and program plans

- **[CLARIFIED]** that 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.
  - 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 review or eligibility.
  - This provision does not apply to procurement transactions for goods and services.

# Subpart D: Post-Award Requirements

## § 200.311 Real Property

- **[NEW]** requirement establishing standards for conducting appraisals of real property, when required under the Federal award.
  - Must use independent appraiser to conduct appraisals.
  - Responsible official of the recipient or subrecipient must certify appraisals.



# Subpart D: Post-Award Requirements

## §§ 200.313-314 Equipment and Supplies

- **[NEW]** threshold values for equipment and supplies increased from \$5,000 to \$10,000
  - Equipment valued at \$10,000 or less per unit may be retained, sold, or disposed of with no further responsibility to the Federal agency/pass-through entity
  - When there is inventory of unused supplies exceeding \$10,000 in aggregate value at the end of the period of performance, recipient/subrecipient may retain or sell the unused supplies provided you compensate the federal agency for its contribution

# Subpart D: Post-Award Requirements

## § 200.319 Competition

- **[MODIFIED]** OMB removed the prohibition on using geographic preference requirements.
  - Use of scoring mechanisms not prohibited to reward bidders committing to specific numbers of U.S. jobs and certain compensation and benefits
  - **Notes:** Any scoring mechanism must be consistent with U.S. Constitution, applicable Federal statutes and regulations, and award terms and conditions

# Subpart D: Post-Award Requirements

## § 200.320 Procurement methods

- **[CLARIFIED]** micro purchases may be awarded ***without*** soliciting competitive price or rate quotations if recipient or subrecipient (2 CFR § 200.320):
  - Considers the price reasonable and
  - Maintains documents to support its conclusion

# Subpart D: Post-Award Requirements

## § 200.320(a)(1)(iv) Procurement methods

- **[NEW in 2020]** recipient/subrecipient may self-certify a micro-purchase threshold of **up to \$50,000** if available supporting documentation demonstrates any of the following:
  - Qualification as a low-risk auditee on most recent audit in accordance with § 200.520;
  - Annual internal institutional risk assessment to identify, mitigate and manage financial risk; or
  - A higher threshold consistent with state law (public institutions only)
- Must self-certify on an **annual basis** and maintain records that include **justification, clear identification of the threshold**

# Subpart D: Post-Award Requirements

## § 200.320(a)(1)(v) Procurement methods

- **[NEW in 2020]** recipients/subrecipients may increase micro-purchase threshold **above \$50,000** if:
  - Approved by cognizant agency for indirect costs and
  - Submitted request certifying the previous requirements (see slide 36)
- **[NEW in 2020]** Increased threshold valid until there is a change in status in which the justification was approved

# Subpart D: Post-Award Requirements

## § 200.321 Contracting with small businesses . . . .

- **[MODIFIED]** the types of businesses that recipients and subrecipients are encouraged to consider for procurement contracts to include veteran-owned businesses.

# Subpart D: Post-Award Requirements

## § 200.323 Procurement of recovered materials

- **[MODIFIED]** to encourage recipients and subrecipients to purchase, acquire, or use products and services that can be reused, refurbished, or recycled, and that are sustainable.

# Subpart D: Post-Award Requirements

## § 200.324 Contract cost and price

- **[MODIFIED]** Removed the requirement to negotiate profit as a separate element of the price for each contract in which there is no price competition.
  - Recipients and subrecipients not prohibited from taking such action if necessary.



# Subpart D: Post-Award Requirements

## § 200.331 Subrecipient and contractor determinations

- **[CLARIFIED]** Federal agencies do not have a direct legal relationship with subrecipients and contractors of pass-through entities.
  - Federal agencies are still responsible for monitoring pass-through entity's oversight of first-tier subrecipients.

# Subpart D: Post–Award Requirements

## § 200.332(b)(4) Requirements for pass-through entities (PTE)

- **[CLARIFIED in 2020]** recognition of indirect costs by PTEs
  - Must recognize subrecipient's federally negotiated indirect cost rate (FNICR)
  - If subrecipient **not** have a FNICR:
    - Negotiate an indirect cost rate with the subrecipient
    - Recognize indirect cost rate between the subrecipient and a different pass-through entity
    - Accept the de minimis rate

# Subpart D: Post–Award Requirements

## § 200.332(b)(4) Requirements for PTE; Appendix IV, C.2.a

- **[CLARIFIED in 2020]** Subrecipients can elect to use the cost allocation method to account for indirect costs in accordance with §200.405(d)
- **[CLARIFIED in 2020]** If the nonprofit does not receive direct federal funding, the pass-through entity is responsible for the negotiation of the indirect cost rates

# Subpart D: Post-Award Requirements

## § 200.340(b) Termination

- **[MODIFIED]** the termination of a federal award by a Federal agency or pass-through entity if an award no longer effectuates program goals or agency priorities by adding “***pursuant to the award terms and conditions, including to the extent authorized by law***”

# Subpart D: Post-Award Requirements

## § 200.344(b) Closeout

- **[CLARIFIED]** Recipients must still submit a final financial report even when the recipient does not have a final indirect cost rate.
  - An additional final report must be submitted when the indirect cost rate is finalized.
- **[NEW in 2020]** Recipient has 120 days (up from 90) to submit closeout documents to federal agency after period of performance
- **[CLARIFIED in 2020]** Subrecipient must submit closeout documents to pass-through within 90 days of period of performance

# Subpart D: Post-Award Requirements

## § 200.345 Post-closeout adjustments and continuing responsibilities

- **[NEW in 2020]** The closeout of a Federal award does not affect any of the following:
  - Ability of Federal awarding agency to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments

# **COST PRINCIPLES**

# Subpart E: Cost Principles

## Key Updates in Part 200

- Allowability factors (403)
- Prior approval (407)
- Indirect cost rates (414)
- Advertising/PR (421)
- Compensation (430)
- Fringe benefits (431)
- Conferences (432)
- Entertainment costs (438)
- Organization costs (455)
- Participant support costs (456)
- Termination costs (472)



# Subpart E: Cost Principles

## § 200.403(h) Factors Affecting the Allowability of Costs

- **[NEW]** Administrative closeout costs may be incurred until the due date of the final report(s).
  - 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

# Subpart E: Cost Principles

## § 200.407 Prior Written Approval

- **[NEW]** Prior written approval no longer required for the following costs:
  - *Direct for admin salaries*
  - *Participant support*
  - *Entertainment*
  - *Selling and marketing*
  - *Memberships*
  - *Taxes*
- Even absent prior approval, **must** follow Cost Principles!

# Subpart E: Indirect Costs

## § 200.414(c)(2) Acceptance of Negotiated Indirect Cost Rates

- **[NEW]** Recipient/subrecipient may notify OMB of any disputes with Federal agencies regarding the application of a federally negotiated indirect cost rate
  - Uncertainty over procedures post-notification
  - OMB noted that it would not serve as arbiter between recipient/subrecipient and federal agency

# Subpart E: Indirect Costs

## § 200.414(d) Acceptance of Negotiated Indirect Cost Rates

- **[CLARIFIED]** Pass-through entities **must** accept all federally negotiated indirect cost rates for subrecipients.

# Subpart E: Indirect Costs

## § 200.414(f) De minimis rate

- **[NEW]** up to **15% de minimis rate** now available
  - Any non-federal entities that doesn't have a current rate may elect **[NEW in 2020]**
  - 15% of Modified Total Direct Cost (MTDC)
  - Recipient/subrecipient decide %, **not** federal agencies/pass-throughs unless required by federal statute or regulation
  - No documentation/proof required **[CLARIFIED in 2020]**
  - Can be used indefinitely

# Subpart E: Cost Principles

## § 200.421(b)(4) Advertising and Public Relations

- **[CLARIFIED]** “program outreach” to include “recruiting project participants” as an example.

# Subpart E: Cost Principles

## § 200.432 Conferences

- **[CLARIFIED]** Removed language specifying type of gatherings considered “conferences”
- Broadened allowable conference costs:
  - No longer only costs paid by recipient/subrecipient as “a sponsor or host”
  - Includes attendance fees
  - Adds cost associated with “providing” not just “identifying” available dependent care resources “for participants”

# Subpart E: Cost Principles

## § 200.438 Entertainment Costs

- **[CLARIFIED]** that prizes or challenges are allowable if they have a specific and direct programmatic purpose and are included in the Federal award.
  - Includes reference to OMB Guidance on uses of challenges and prizes



# Subpart E: Cost Principles

## § 200.455(b) Organization Costs

- **[NEW]** OMB specified that unallowable costs include those for: “activities undertaken to persuade employees of the recipient or subrecipient, or any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees' own choosing.”

# Subpart E: Cost Principles

## § 200.455(c) Organization Costs

- **[NEW]** Costs related to data and evaluation are allowable
  - Data costs include (but aren't limited to) those to gather, store, analyze, disaggregate, share, and publish to administer or improve the program
  - Evaluation costs include (but aren't limited to) evidence reviews, evaluation planning, conducting evaluations, and sharing evaluation results

# Subpart E: Cost Principles

## § 200.456 Participant Support Costs

- **[NEW]** Must now document participant support costs in written policies and procedures
  - Emphasized that must treat these costs consistently across all Federal awards
  - Removed prior approval requirement

# Subpart E: Cost Principles

## § 200.472(b) Termination and Standard Closeout Costs

- **[NEW]** Administrative costs associated with closeout activities of a Federal award are allowable
  - Includes indirect costs in examples of allowable administrative closeout costs
  - Noted that closeout costs may be incurred until due date of final report

# SINGLE AUDIT

# Audit Requirements

## § 200.501 Single Audit Threshold

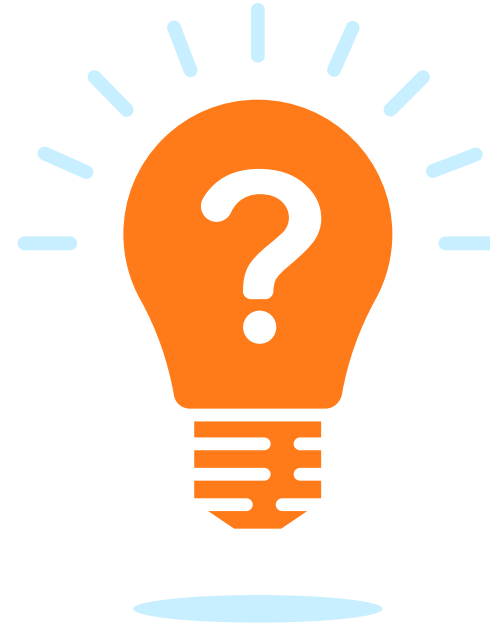
- **[NEW]** Expenditures of federal funds that triggers a Single Audit = \$1,000,000
  - Time frame within which federal funds must be expended is the non-federal entity's *fiscal year*.

# Audit Requirements

## § 200.512 Report Submission

- **[NEW]** Cognizant agency for audit **or** oversight agency for audit may **extend** the due date for Single Audit submission.
  - Determination based on nine-month timeframe placing an undue burden on an auditee

# QUESTIONS?



*This training is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (T/TA) Center. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0505-02.*

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