

2 CFR Frequently Asked Questions

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This document is designed to address common questions regarding the Office of Management and Budget’s (OMB) implementation of the updates to Title 2 of the Code of Federal Regulations (2 CFR), also referred to as the Uniform Guidance. This document provides additional context and background behind the Uniform Guidance for Federal agencies and non-Federal entities seeking to understand the policy changes. In case of any discrepancy between this document and the Uniform Guidance in 2 CFR, the Uniform Guidance published in 2 CFR governs.

Recipients should consult with the Federal awarding agency regarding whether the Uniform Guidance applies to a particular Federal award. Subrecipients should consult with the pass-through entity.

Additional information about government-wide efforts to improve Federal financial assistance can be found at the U.S. Chief Financial Officers Council website (www.cfo.gov/financial-assistance/).

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Common Acronyms

Acronym	Term
CAS	Cost Accounting Standards
CFR	Code of Federal Regulations
F&A	Facilities and Administrative
FAC	Federal Audit Clearinghouse
FAPIIS	Federal Awardee Performance and Integrity Information System
FAR	Federal Acquisition Regulation
GAAP	Generally Accepted Accounting Principles
GAGAS	Generally Acceptable Government Auditing Standards
GASB	Government Accounting Standards Board
IHE	Institution of Higher Education
MTDC	Modified Total Direct Costs
SAA	Single Audit Act
SAM	System for Award Management
SEFA	Schedule of Expenditures for Federal Awards
U.S.C.	United States Code
UEI	Unique Entity Identifier
NDAA	National Defense Authorization Act

General

Q-1. Where can I find tools to help with implementing 2 CFR?

You can find additional resources at CFO.gov.

Applicability

Q-2. Does the Uniform Guidance restrict its application to subrecipients at a certain tier, after which the Uniform Guidance's requirements are no longer applicable?

No. The Uniform Guidance does not limit the tiers of subrecipients that the requirements may be flowed down to, but the Federal awarding agency may impose such a limit.

Q-3. If the Federal agency awards a FAR based contract to a non-Federal entity, to what extent is the Uniform Guidance applicable to the contract?

The Cost Principles in Subpart E and Audit Requirements in Subpart F are applicable to FAR based contracts awarded by a Federal awarding agency to a non-Federal entity. Non-Federal entity is defined in 2 CFR §200.1 and includes Indian tribes, institutions of higher education, nonprofit organizations, and State and local governments. The Cost Principles are not applicable in certain instances, e.g., when procuring a commercial item or a firm-fixed-price contract is awarded on the basis of adequate price competition without the submission of certified cost or pricing data. While the Audit Requirements are applicable, those requirements are not sufficient to meet FAR contract audit requirements (See **Q-4**). The other subparts of the Uniform Guidance

are applicable, but only to the extent that the Uniform Guidance provision is consistent with the contract's terms and conditions and FAR requirements.

- Q-4. Does an audit conducted in accordance with Subpart F of the Uniform Guidance satisfy the contract audit requirements of FAR based contracts awarded by a Federal agency?

Generally, the answer is no; the audit required by Subpart F of the Uniform Guidance does not satisfy the audit requirements required by the terms of the FAR based contract and FAR requirements, including, but not limited to, the CAS, Truth in Negotiations Act (TINA), contractor business systems, incurred costs, and indirect costs/overhead rates (See §200.503(c)). The SAA (31 U.S.C. §7503(b) – Relation to other audit requirements, gives a Federal agency, Inspector General, or the Government Accountability Office (GAO) the authority to conduct additional audits beyond the single audit required by the SAA when the additional audits are necessary for the agency to carry out its responsibilities under Federal law or regulation. See §200.503(b).

- Q-5. What is the relationship of the CAS to the Uniform Guidance?

The Cost Accounting Standards Board (CASB) is an independent board chaired by OMB's Office of Federal Procurement Policy and is established by statute, 41 U.S.C. § 1501. The CASB has the exclusive authority to prescribe, amend, and rescind CAS, and interpretations of the standards. This is designed to achieve uniformity and consistency in the CAS governing the measurement, assignment, and allocation of costs to contracts with the Federal Government. The CAS are mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing and administration of contracts and subcontracts when they are subject to CAS.

As provided by its exclusive statutory authority, actions taken by the CASB to prescribe or amend rules, regulations, CAS, and modifications thereof, have the full force and effect of law. Section 200.419 of the Uniform Guidance provides only a brief summary of the CAS regulations; for authoritative CAS guidance and additional details, see 48 CFR Part 9900, et seq. and 48 CFR Part 30 (FAR).

Exceptions

- Q-6. How can a Federal awarding agency adjust requirements to a class of Federal awards or non-Federal entities?

Federal awarding agencies are encouraged to consider innovative program designs that apply a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance. Agencies are encouraged to employ innovative solutions to reduce burden, such as fixed amount awards, braided funding, and blended funding. As agencies consider these approaches, they should reach out to OMB to work together and discuss proposed innovative program designs. Additional resources on how to accomplish this and contact information for OMB can be found on CFO.gov. The culmination of this

correspondence with OMB may result in a waiver or exception to the requirements in the Uniform Guidance. (See §200.102(c).)

Q-7. What resources are available to help design a Federal program?

There are a variety of resources that a Federal awarding agency may consider when developing or revising one or more of their programs. Some of these resources can be found on CFO.gov, including the *Managing for Results: The Performance Management Playbook for Federal Awarding Agencies* (April 2020) to assist in the development or revision of a program. It also may be helpful to engage the affected community to determine programmatic and administrative needs and solutions.

Q-8. What is a risk-based framework that is used to alleviate compliance requirements?

A risk-based framework is a critical component of a Federal awarding agency's performance management framework, particularly as it relates to a Federal program. It helps identify risks that may affect advancement toward or the achievement of a project or sub-project's goals and objectives. In addition, integrating risk management practices can assist Federal managers to determine an appropriate level of resources and time to devote to project oversight to monitor recipient progress and hold them accountable for good performance. A risk-based framework could also help Federal awarding agencies develop risk mitigation strategies emphasizing strong performance, and reprioritizing routine post award monitoring and oversight strategies. (See §200.102(d).)

Effective Dates

Q-9. When are the revisions to the Uniform Guidance published on August 13, 2020 effective?

The effective date of the revisions to the Uniform Guidance published in 85 FR 49506 on August 13, 2020 is November 12, 2020, except for the amendments to §§ 200.216 and 200.340, which are effective August 13, 2020.

Q-10. Will this revision apply only to awards made after the effective date or does it apply to awards made earlier?

Generally, revisions to the Uniform Guidance apply to Federal awards made on or after the effective date and will not retroactively apply to Federal awards made prior to the effective date. There may be some instances, such as new statutory requirements, that impose requirements on existing Federal awards. Recipients should review their award terms and conditions to determine the applicability of the revisions to the Uniform Guidance.

Q-11. Are recipients required to update their policies to account for the revisions (e.g., procurement thresholds or subrecipient monitoring requirements) by the effective date?

The revisions are effective for Federal awards made on or after November 12, 2020. Unless otherwise noted, recipients must update their internal policies to reflect the changes in the

Uniform Guidance upon accepting a Federal award made on or after the effective date (November 12, 2020). (See **Q-10**.)

- Q-12. Do Federal agencies need to re-adopt the Uniform Guidance for the revisions to become effective to their recipients?

It depends. Federal agencies must review their original adoption to ensure that it aligns with the most current version of the Uniform Guidance. In instances where there is a policy conflict between a Federal agency's adoption and the revisions in the Uniform Guidance, the adoption must be updated before the revisions become effective for the recipients. Recipients should consult their Federal awarding agency for more information. (See §200.106.)

- Q-13. How do the revisions to the Uniform Guidance affect subawards made after the effective date when the Federal award was made prior to the effective date?

The Federal awarding agency establishes requirements for a subaward flow in the terms of the Federal award. (See **Q-2**.)

- Q-14. How does the effective date apply to awards with incremental funding?

The Federal awarding agency can apply new or revised terms and conditions, consistent with OMB guidance when issuing new funds to an existing Federal award when negotiating a modification or prior approval to a Federal award with a non-Federal entity.

- Q-15. How does the effective date apply to negotiated indirect cost rates?

Existing negotiated indirect cost rates will generally remain in place until they are due to be renegotiated. The non-Federal entity must review its current indirect cost rate proposal or previously negotiated rate to ensure that it does not include any major conflicts with the revised Uniform Guidance (e.g., costs for covered telecommunications services or equipment). If there is a conflict, the non-Federal entity should work with the cognizant agency for indirect costs to ensure compliance with the revised Uniform Guidance.

- Q-16. When will the new DS-2 form based on the updated Uniform Guidance be available? Can the current DS-2 form be used by the IHE to report any changes in policy?

Until the new form is released, IHEs must use the current DS-2 form to report initial or revisions to disclosure statements. The IHE can annotate those sections of the DS-2 that are changed due to the implementation of the Uniform Guidance with "See Continuation Sheet," and describe the changed accounting practices in the Continuation Sheet. (See §200.419.)

- Q-17. May IHEs submit applications that are inconsistent with their DS-2 statement if that application is made in order to reflect the updated Uniform Guidance?

Yes. All awards made on or after the effective date of the revised Uniform Guidance will be made according to the revised Uniform Guidance. DS-2 statements that need to be revised to reflect new policies should be revised as soon as possible after the effective date of the revised

Uniform Guidance. IHEs will not be penalized for discrepancies between their approved DS-2 and actual charging practices in accordance with the revised Uniform Guidance, provided that an updated DS-2 (consistent with actual charging practices) has been revised and submitted. (See **Q-16.**)

Conflict of Interest

Q-18. Does Uniform Guidance's policy on conflict of interest refer to conflicts of interest in research?

No. The conflict of interest policy in 2 CFR §200.112 refers to conflicts that might arise around how a non-Federal entity expends funds under a Federal award. These types of decisions include, for example, selection of a subrecipient or procurements as described in 2 CFR §200.318. Federal awarding agencies may however have special policies or regulations specific to investigator financial conflicts of interest, such as the U.S. Department of Health and Human Services' policy at 42 CFR Part 50 Subpart F.

Q-19. Does the conflict of interest policy apply when a pass-through entity issues a subaward to support a research and development project?

Yes. The terms and conditions of Federal awards, including conflict of interest requirements (2 CFR §200.112), flow down to subrecipients through their subawards unless otherwise notified in the terms and conditions of the Federal award. Recipients should consult their Federal awarding agency for more information. (See §200.101, **Q-2**, and **Q-18.**)

Entity Type Information

Q-20. Are references in the Uniform Guidance referring to State law inclusive of tribal law as Indian tribes are not included in the definition of State?

It depends. Non-Federal entities should consult with their Federal awarding agency on the terms and conditions for their Federal award.

Q-21. Does the definition of Indian tribes prevent them from using the cash or modified-cash basis method of submitting financial statements?

No. Neither the SAA nor the Uniform Guidance require non-Federal entities to submit financial statements in accordance with GAAP. Cash or modified-cash basis financial statements may be submitted to meet the requirements of 2 CFR Part 200 Subpart F. Auditors are required by the SAA (31 U.S.C. § 7502(e)(1)) and 2 CFR §200.514(b) to determine whether the submitted financial statements are presented fairly in all material respects in accordance with GAAP. (See §200.403(e)).

Q-22. Does the exclusion of IHEs from the definition of nonprofit organizations render IHE's ineligible for funding opportunities that are limited to nonprofit organizations?

No. The exclusion of IHEs from the definition of nonprofit organizations does not change their status as nonprofit organizations when applying for funding opportunities. If a Federal awarding

agency intends to exclude IHEs from an opportunity that is otherwise open to other nonprofit organizations, they will specify this in the notice of funding opportunity. The exclusion of IHEs from this definition was intended to avoid confusion when the Uniform Guidance's provisions differ for IHEs and other non-profit organizations, such as certain cost principles (i.e., compensation for personnel services and fringe benefits) and the identification and assignment of indirect costs as well as their rate determinations.

Q-23. Can Indian tribes apply for funds reserved for States when they are not included in the definition of the term "State?"

It depends. Non-Federal entities should consult with the Federal awarding agency to determine their eligibility for particular notices of funding availability. (See **Q-20**.)

UEI and System for Award Management

Q-24. Do individuals have to register in SAM.gov to get a UEI so they can access FSRS.gov and report the subaward or are individuals exempt from reporting subawards?

Individuals are exempt from reporting subawards as long as they meet the criteria in 2 CFR §25.110(b), which requires that they apply for or receive Federal financial assistance as a *natural person* (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name).

Q-25. Are borrowers expected to maintain an active SAM.gov registration after they've received the final payment for the loan and are in the servicing or loan repayment phase?

Yes. Because loans in the servicing or loan repayment phase are considered active Federal awards, borrowers are expected to maintain an active SAM.gov registration.

Q-26. Are subrecipients required to register in SAM.gov?

No. Subrecipients are not required to register in SAM.gov. Subrecipients are required to obtain a UEI through SAM.gov, which must be provided to the pass-through entity awarding the subaward. (See §25.300.)

Q-27. Are subrecipients required to have a UEI to receive a subaward?

Yes. Subrecipients must obtain a UEI and provide that information to the pass-through entity making the subaward. (See §25.300.)

Q-28. Where do subrecipients get a UEI?

SAM.gov provides instructions for getting a UEI. Currently, subrecipients should go to <https://fedgov.dnb.com/webform/> and request a Data Universal Numbering System (DUNS) Number from Dun & Bradstreet. In April 2022, the U.S. Government is completing its transition

away from using the DUNS Number as a UEI. At that point, subrecipients may only request a UEI directly from SAM.gov.

Q-29. How is attaining a UEI different from registering in SAM.gov?

Obtaining a UEI is accomplished through SAM.gov; however, obtaining a UEI does not result in a full SAM.gov registration.

Q-30. Are additional tiers of subrecipients, beyond the direct subrecipient from a recipient of a Federal award, required to attain a UEI?

No. The requirements for obtaining a UEI do not flow down beyond the first-tier subawards of a Federal award.

Reporting Subaward and Executive Compensation Information

Q-31. Do recipients of Federal awards need to report on subawards over \$25,000 to comply with FFATA?

Recipients should confirm their compliance with FFATA by reviewing the terms and conditions of their Federal award. The revisions to 2 CFR §170.220 published in 85 FR 49506 on August 13, 2020 raised the subaward reporting threshold from \$25,000 to \$30,000. As a result, recipients of awards made prior to November 12, 2020, are required to report on subawards over \$25,000, while the recipients of awards made on or after November 12, 2020, are required to report on subawards over \$30,000.

Q-32. Is there an impact on FFATA reporting as a result of subrecipients not registering in SAM.gov?

No, subrecipients have never been required to fully register in SAM.gov. As a result, there is no impact on FFATA reporting. Subrecipients are only required to obtain a UEI, which is necessary for FFATA reporting. The revisions to 2 CFR published on August 13, 2020 made this clarification.

Fixed Amount Awards and Subawards

Q-33. What standards are used when deciding to use a fixed amount award, particularly when a project scope is *specific* and what constitutes *adequate* cost, historical, or unit price data?

Section 200.201 was not intended to create a new, higher standard for budgeting. Fixed amount awards are appropriate when the work that is to be performed can be determined with a reasonable degree of certainty. Examples of mechanisms to establish an appropriate amount for a fixed amount award include the non-Federal entity's past experience with similar types of work for which outcomes and the award's costs can be reliably predicted, or the non-Federal entity can easily obtain estimates (e.g., bids, quotes, catalog pricing) for significant cost elements to establish an amount.

Federal awarding agencies that are interested in using fixed amount awards or allowing pass-through entities to use fixed amount subawards, and have specific questions about them, should work with OMB.

- Q-34. What are the reporting requirements for the non-Federal entity to provide to the awarding agency when certifying that the project was completed or the level of effort was expended?

The Federal awarding agency or pass-through entity may specify the form or format required to certify completion or that the level of effort was expended. Federal awarding agencies must do so through an OMB-approved information collection. If no format is specified, the recipient should certify completion to the Federal awarding agency (or the subrecipient should certify to the pass-through entity) as a part of the closeout process. Consistent with 2 CFR §200.308(c)(3), a reduction of more than 25 percent in time devoted to the project, by the approved project director or principal investigator, must be reported to the Federal awarding agency to initiate a prior approval to amend the agreement. In other cases where an amendment is necessary, typical mechanisms would include basing the adjustment on the percentage of completed work, actual costs incurred to date, or on another documented basis.

- Q-35. Can a pass-through entity issue multiple fixed amount subawards to one subrecipient?

More than one fixed amount subaward can be issued to the same subrecipient if necessary to complete the objectives of a Federal award. It is expected, however, that each fixed amount subaward will have its own distinct statement of work and be priced for the work and deliverables that will be due under that subaward, and that prior approval of the Federal awarding agency is required, as outlined in §200.333.

Non-Federal entities having special circumstances, including an unanticipated need to increase a fixed price subaward above the threshold, should consult with their Federal awarding agency for guidance on how to complete the planned scope of work with the least amount of administrative burden.

- Q-36. What's the maximum limit for a fixed amount subaward?

The maximum limit is the simplified acquisition threshold, which at the time of the publication of this FAQ is \$250,000. (See §200.333.)

- Q-37. Can a non-Federal entity retain any unexpended balance on its fixed amount awards?

Yes. The non-Federal entity can retain unexpended funds from its fixed amount awards so long as the project or activity was completed or the required level of effort was expended. Any residual unexpended balance at the end of a completed award is not considered "profit." (See §200.201.)

Q-38. How do the Cost Principles apply to fixed amount awards and subawards?

For fixed amount awards, agencies should use the Cost Principles described in §§ 200.400 and 200.401 as a guide when budgeting for work that will be performed, but are not required to use the Cost Principles as compliance requirements for these types of awards. The recipient and the Federal agency, or the pass-through entity and the subrecipient, use the Cost Principles along with historic information about the work to be performed to establish the amount that should be paid for the work to be performed. Once the price is established and the fixed amount award or subaward is issued, payments are based on achievement of milestones (e.g., per patient, per procedure, per assay, or per milestone) and not on the actual costs incurred.

Pre-Award Requirements

Q-39. What are exigent circumstances mentioned in §200.203(a)(3) and who determines when they happen?

Exigent circumstances refer to situations requiring unusual or immediate action, usually an emergency situation. These are determined by the Federal awarding agency on a case-by-case basis.

Q-40. How does §200.204, which requires that certain notice of funding opportunity information be posted on an OMB-designated website, relate to the use of Grants.gov?

Grants.gov is the OMB-designated government-wide website for displaying the summary information in notices of funding opportunities mentioned in §200.204(a). This designation was established in OMB Memorandum M-04-01, *OMB Issues Grants.gov FIND Policy* (October 15, 2003).

Q-41. What guidelines are auditors given to determine financial stability of a non-Federal entity when reviewing the risk posed by applicants provided in §200.206?

The guidance in this section applies to the Federal awarding agencies' review of risk posed by applicants before an applicant receives an award, not the risk assessment process used by auditors. Guidance given to auditors for reviewing risk can be found in Subpart F of the Uniform Guidance and GAGAS.

Q-42. How can Federal awarding agencies adjust an agreement's requirements when a risk-evaluation indicates that it may be merited?

Depending on the results of a Federal award's risk-evaluation, a Federal awarding agency may impose more stringent requirements or relax specific requirements. This may be done through a variety of mechanisms, including incorporating special terms and conditions that align with the areas of risk or modifying the Federal awarding agency's monitoring plan for the Federal award. Federal awarding agencies are encouraged to work with the recipient to negotiate a constructive way to ensure alignment with the Uniform Guidance. This process and decision should be documented following the Federal awarding agency's policies and procedures and

revisited periodically in alignment with their monitoring plan for the Federal award. (See §200.206(c).)

Q-43. Does the total amount of the Federal award include both Federal and non-Federal funding?

For the purposes of §200.211(10), the total amount of the Federal award includes both Federal and non-Federal funding, such as cost sharing or matching.

Q-44. What is the difference between the total amount of the Federal award and the total amount of Federal funds obligated?

The *total amount of Federal funds obligated* refers to the Federal government's legal liability to disburse funds for the Federal award while the *total amount of the Federal award* is inclusive of the total amount of Federal funds obligated and total approved cost sharing or matching. (See §200.211.)

Q-45. How can recipients comply with the requirements associated with *Never Contract with the Enemy* in §200.215?

The recipient must exercise due diligence based on information available to them to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Prohibition on Covered Telecommunication and Video Surveillance Services and Equipment

Q-46. What are "covered telecommunications equipment or services"?

Section 889 of the NDAA of 2019 defines "covered telecommunications equipment or services" to mean telecommunications and video surveillance equipment or services produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

"Covered telecommunications equipment or services" also includes telecommunications or video surveillance equipment or services provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity that is owned or controlled by the government of a covered foreign country. Additional entities identified as covered entities will be identified as described in **Q-47**.

Q-47. How do you know if an entity has been added to the list of covered entities?

Entities added to this list will be incorporated into the excluded parties list in the SAM (www.sam.gov). When a user conducts a search of the excluded parties list, a record will appear describing the nature of the exclusion for any entity identified as covered by this prohibition.

Q-48. What is the covered foreign country?

The People's Republic of China.

Q-49. Can this prohibition be waived for grants and loans?

Unlike Federal procurement, the prohibition cannot be waived for Federal assistance such as grants and loans.

Q-50. Is it mandatory to include a specific provision in Federal awards and notices of funding opportunity issued on or after August 13, 2020?

The Federal awarding agency must take positive steps to ensure that recipients are aware of the requirements associated with this provision as of August 13, 2020. While referencing 2 CFR Part 200 may likely suffice, including a specific provision may be a best practice in order to ensure clarity, especially because this is a new requirement.

Q-51. Does the section 889 prohibition apply to existing Federal awards as of August 13, 2020?

Yes. The section 889 prohibition on covered telecommunications and video surveillance services or equipment is effective on all expenditures charged to Federal awards as of August 13, 2020.

Q-52. Will this prohibition impact fixed amount awards where payment is based upon the achievement of milestones and not based on actual costs?

Yes, the prohibition on covered telecommunications and video surveillance services or equipment applies and the recipient's budget must not include the cost of covered telecommunications and video surveillance services or equipment in their fixed amount award.

Q-53. Can a Federal award be provided to a recipient when they use covered telecommunications equipment or services?

Yes, as long as the Federal award does not pay for the covered telecommunications and video surveillance services or equipment that the recipient uses. If the Federal agency suspects that the goods and services being procured under the award may in fact be prohibited, it must take appropriate action, consistent with its policies and procedures, and in accordance with the guidance in 2 CFR Part 200.

Q-54. Do existing Federal awards need to be amended to include the provision after August 13, 2020?

This prohibition applies to existing Federal awards. Federal awarding agencies must ensure that recipients are aware of this prohibition and determine if an amendment is needed on a case by case basis.

Q-55. If a Federal award issued prior to August 13, 2020 is amended for non-financial purposes (i.e., no cost extension or scope), does the amendment need to include this prohibition?

This prohibition applies to existing Federal awards. Federal awarding agencies must ensure that recipients are aware of this prohibition and determine if an amendment is needed on a case by case basis.

Q-56. If a Federal award issued prior to August 13, 2020 is amended for the purposes of adding supplemental funds, does the amendment need to include this prohibition?

This prohibition applies to existing Federal awards. Federal awarding agencies must ensure that recipients are aware of this prohibition and determine if an amendment is needed on a case by case basis.

Q-57. Can a Federal award be used to procure goods or services, unrelated to prohibited services or equipment, from an entity that uses such equipment and services?

Yes.

Q-58. Do recipients need to certify that goods or services procured under a Federal award are not for covered telecommunications equipment or services?

Yes, when the recipient signs an award agreement they are certifying that they will comply with all applicable laws, rules, and regulations, including the prohibition on covered telecommunications equipment and services. If the Federal agency suspects that the goods and services being procured under the award may in fact be prohibited, it must follow its own policies and procedures to take appropriate action that aligns with the guidance in 2 CFR Part 200. OMB is separately evaluating the certifications and representations statement in SAM and will make any necessary updates.

Q-59. Can recipients use the costs associated with covered telecommunications equipment or services or equipment to meet their cost sharing or match requirements?

No, such costs are unallowable costs.

Q-60. Can recipients use program income generated by a Federal award to cover the costs associated with covered telecommunications equipment or equipment?

No. Program income must be used for allowable costs in accordance with 2 CFR §200.307.

Q-61. Will this prohibition impact awards that use the de minimis indirect cost rate, as the 10 percent is based on MTDC and not specific indirect costs elements?

No, the prohibition on covered telecommunications and video surveillance services or equipment does not affect a non-Federal entity's use of the de minimis indirect cost rate; however, the non-Federal entity must review its costs used to determine its de minimis indirect cost rate to ensure that unallowable costs are not included in the calculation. The MTDC cannot include unallowable costs in its calculation of the de minimis indirect cost rate.

Q-62. When a recipient normally charges prohibited services or equipment through their indirect cost pool, can a Federal award cover the same recipient's indirect costs?

No, like other unallowable costs, covered telecommunications and video surveillance services or equipment costs must not be charged either directly or indirectly to Federal awards. The recipient must separately negotiate an indirect cost rate for their Federal awards that excludes these costs from the indirect cost pool and base amount chargeable to its Federal award(s).

Q-63. How will covered telecommunications equipment or services as a new unallowable expense be implemented for indirect cost rates?

Federally approved indirect cost rate agreements generally do not need to be reopened or amended, but may need to be adjusted in accordance with 2 CFR §200.411. The non-Federal entity must review its current indirect cost rate proposal or previously negotiated rate to ensure that it does not include expenses associated with covered telecommunications equipment or services because the non-Federal entity must certify that the costs included in its proposal are allowable.¹

- If a non-Federal entity has not included the covered telecommunications equipment or services, then it should include a statement with each indirect cost proposal affirming that it has not included any costs described in 2 CFR §200.216.
- If a non-Federal entity finds that it has included the covered telecommunications equipment or services in an indirect cost proposal currently under review or a previously negotiated rate, then it should immediately contact the cognizant agency for indirect costs to revise the indirect cost proposal or negotiated rate.

Q-64. How will Federal agencies identify covered telecommunications and video surveillance services or equipment as unallowable costs in the negotiation and random audit selection of indirect costs?

Federal agencies must adapt their policies and procedures to review the costs associated with the prohibited telecommunications and video surveillance services or equipment. 2 CFR Part 200 requires the recipient to certify that all costs within the negotiated indirect cost rate are allowable in accordance with 2 CFR Part 200, Subpart E (Cost Principles). The covered

¹ 2 CFR Part 200, Appendix III (F), Certification; Appendix IV (D), Certification of Indirect (F&A) Costs; Appendix VII (D.3), Required Certification.

telecommunications and video surveillance services or equipment mentioned in Sec. 889 of the NDAA of 2019 are considered unallowable under 2 CFR Part 200, Subpart E (Cost Principles).

Q-65. What are the Federal awarding agencies' responsibilities to monitor adherence to this provision?

Federal awarding agencies are responsible for the implementation of this provision, as they are for the other compliance requirements in 2 CFR Part 200, and must incorporate oversight of this provision into their existing the monitoring and compliance oversight of Federal awards. Adherence to these new requirements will also be reviewed for costs incurred on or after August 13, 2020 in future Single Audits and other audits of recipient spending.

Q-66. How should a Federal awarding agency handle a recipient that procured covered telecommunications equipment or services or equipment under a Federal award?

If a recipient procures covered technology under a Federal award, the Federal awarding agency must follow its policies and procedures associated with monitoring Federal awards and, when appropriate, pursue remedies for noncompliance, which must align with the guidance provided in 2 CFR Part 200.

Post-Award Requirements

Q-67. What is the expectation about a non-Federal entity's compliance with the guidance in the Green Book in 2 CFR §200.303 Internal Controls?

The requirement is that the non-Federal entity must establish and maintain effective internal controls over Federal awards that provide reasonable assurance that awards are being managed in compliance with Federal statutes, regulation, and the Federal award terms and conditions. The Uniform Guidance also refers non-Federal entities to three documents for best practices: (1) *Standards for Internal Control in the Federal Government (Green Book)*; (2) *Internal Control Framework* issued by the Committee on Sponsoring Organizations (COSO); and (3) *Appendix XI, Compliance Supplement – Part 6 Internal Control*.

While non-Federal entities must have effective internal controls, there is no expectation or requirement that the non-Federal entity document or evaluate internal controls prescriptively in accordance with the three best practices documents or that the non-Federal entity or auditor reconcile technical differences between them. They are provided solely to alert the non-Federal entity to source documents for best practices. Non-Federal entities and their auditors will need to exercise judgment in determining the most appropriate and cost-effective internal controls in a given environment or circumstance to provide reasonable assurance for compliance with Federal program requirements.

Q-68. Does §200.305(b), including the requirement to consider advance payments to subrecipients, apply to states?

No. Requirements for states are provided in §200.305(a).

Q-69. Does §200.305(b)(1) require non-Federal entities to request payments on an advance basis, even if it has not requested that its funding method be changed?

No. §200.305(b)(1) requires Federal awarding agencies to consider advance payments as the initial payment process for recipients of Federal awards. This status is conditioned upon the non-Federal entity's compliance with the Uniform Guidance.

Q-70. Can a non-Federal entity use funds provided by a Federal award to fulfill the cost sharing or matching requirement of another Federal award?

No. The cost sharing or matching requirement cannot be paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such a program can be applied to matching or cost sharing requirements. (See §200.306.)

Q-71. Should the income from license fees and royalties of nonprofit organizations be excluded from the definition of program income as required by the Bayh-Dole Act (35 U.S.C. § 202(c)(7))?

Yes, program income from license fees and royalties on research funded by a Federal award should be excluded from program income. U.S. law or statute takes precedent over the Uniform Guidance. In this case, the Bayh-Dole Act requires that a portion of the license fees and royalties on patents are required to be returned to the inventor and the balance is to be used for education and research.

Q-72. How far does the provision for domestic preferences for procurements (§200.322) reach into products that may contain items of domestic preference (steel, iron)?

The recipient should review its Federal award terms and conditions to determine relevant requirements and consult with the Federal awarding agency.

Q-73. What types of costs would be considered allowable in the case of a termination?

Affected recipients will negotiate with the Federal awarding agency to determine costs that will be considered allowable on a case-by-case basis. (See §§ 200.340 through 200.343.)

Q-74. When closing out a Federal award, where the recipient does not yet have a final indirect cost rate, should the agency closeout the award and then re-open it if a revision is needed?

The Federal agency must make every effort to complete all closeout actions for Federal awards as described in §200.344 no later than one year after the end of the period of performance unless otherwise directed by authorizing statutes. The Federal agency should not wait to complete its closeout action until a final rate is established by the cognizant agency for indirect costs. An agency that has a fixed with carry-forward rate can close out its awards using these rates because they are considered final as any adjustments are rolled into future indirect cost rates. The Federal agency may reopen an award for adjustment when a final indirect cost rate is issued. All adjustments are subject to the availability of agency funds.

Subrecipient Monitoring and Management

Q-75. Are subcontractors and suppliers considered subrecipients?

The nature of the relationship determines whether an agreement is considered a subaward. Recipients may refer to an entity as a subcontractor or supplier, but they may be considered a subrecipient for the purposes of applying the Uniform Guidance requirements. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the recipient. A contract is for the purpose of obtaining goods and services for the recipient's own use and creates a procurement relationship with the contractor. (See §200.330 and **Q-83**.)

Q-76. Do pass-through entities need to check subrecipient debarment?

Yes. Pass-through entities must verify that the entity or person with whom it intends to do business is not excluded or disqualified. This can be done by checking SAM.gov Exclusions; collecting a certification from that person; or adding a clause or condition to the covered transaction with that person. (See §180.300.)

Q-77. Are pass-through entities required to assess the risk of non-compliance for each applicant prior to making a subaward?

Section 200.332(b) requires risk assessments of subrecipients. While there is no requirement for pass-through entities to perform these assessments before making subawards, pass-through entities are encouraged to conduct the risk assessments prior to making subawards. Doing so before making the subaward helps determine the appropriate monitoring tools pass-through entities should use for their subrecipients. Pass-through entities may use their own judgment regarding the most appropriate timing for the assessments. Regardless of the timing chosen, the pass-through entity should document its procedures for assessing risk.

Q-78. How does a subaward's timing requirement for final reports (90 days) intersect with the pass-through entity's deadline to liquidate obligations (120 days)?

The subrecipient is required to submit reports within 90 days to the pass-through entity. The 120-day deadline for the pass-through entity to report to the Federal awarding agency allows a 30-day period for reconciling payments and liquidating financial obligations.

Q-79. Can a pass-through entity request written confirmation from a subrecipient of the completion of a Single Audit and any audit findings relating to its subaward?

Yes. A confirmation from the subrecipient is sufficient to meet the requirements of §200.332(d)(2) and §200.332(f). In addition, the pass-through entities can view and verify the Single Audit reporting packages that are now publicly available through the FAC.

Subrecipients are required to include a pass-through entity identifying number on both the SEFA and the Single Audit Data Collection Form (SF-SAC) to aid the pass-through entity in searching for and identifying the reporting packages of their subrecipients in the FAC.

Q-80. Are pass-through entities responsible for resolving subrecipient single audit findings?

Pass-through entities are only responsible for resolving audit findings specifically related to their subrecipient's subaward. They are not responsible for resolving cross-cutting findings. The pass-through entities are also only responsible for issuing management decisions for applicable audit findings pertaining to its subaward. (See subsections (3) and (4) of §200.332(d).)

Property Standards

Q-81. Does the inclusion of information technology systems in the definition of equipment mean that the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000 applies to software?

Yes, the maximum capitalization level of \$5,000 applies to software, regardless of the level used for financial statement purposes. This definition encompasses purchased software that comes with the hardware with a unit cost greater than \$5,000. It does not include internally developed software projects which are capitalized in accordance with GAAP for financial statement purposes.

Q-82. What does *conditional title* mean and does this affect how non-Federal entities account for equipment ownership?

Conditional title means that equipment ownership vests in the non-Federal entity at the time of acquisition and that it is contingent on meeting the requirements for use, management, and disposition of the equipment as required in 2 CFR §200.313. There is not any change in the Uniform Guidance for how non-Federal entities should account for equipment ownership.

Procurement Standards

Q-83. Can non-Federal entities continue to refer to subawards to nonprofit organizations as "contracts"?

Yes, non-Federal entities may refer to their subawards to nonprofit organizations as "contracts." Non-Federal entities may call an agreement with a nonprofit organization whatever they like, so long as the agreement is audited according to the appropriate policies under the Uniform Guidance based on the determination made in accordance with section 200.331. See the definition of subaward under §200.1 which states, "A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract."

- Q-84. Does the insertion of “or duplicative” in 2 CFR §200.318(d) mean that IHE will have to revert to equipment screening procedures that were previously eliminated?

The Uniform Guidance in §200.318(d) states that the non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. This language does not require any specific equipment screening procedures.

- Q-85. How are procurements of micro-purchase and small purchases under the Simplified Acquisition Threshold less burdensome than those above it?

Non-Federal entity procedures for the acquisition of goods or services at or below the Simplified Acquisition Threshold (including micro-purchases) may require fewer terms and conditions, and may have a streamlined process for the solicitation, documentation, justification and approval of those purchases. All procurement types must comply with the Procurement Standards in §200.318, which include: (1) the purchase complies with the non-Federal entity’s documented procedures in place, (2) purchases are necessary, (3) open competition (to the extent required by each method), (4) conflict of interest policy, and (5) proper documentation for the purchases. All purchases must be documented appropriately. See §200.320 and **Appendix A – Procurement “Claw”**.

- Q-86. What are the expectations for non-Federal entities to renew exceptions to the micro-purchase threshold with their cognizant agency?

Non-federal entities should work with their cognizant agency for indirect costs to address exceptions to the threshold.

- Q-87. Does the inclusion of §200.321 in the §200.317, which provides guidance on procurement by state entities, substantively change their procurement rules?

The modification will need to be considered by each state entity as they review their policies and procedures to ensure alignment with the revisions to 2 CFR.

- Q-88. Can a procurement by noncompetitive proposals be used when items are needed from a particular source for scientific reasons and would this be for any dollar amount?

This option is available at all dollar amounts, provided it complies with the general procurement standards under §200.318, including documentation requirements in §200.318(i). (See §200.320(c).)

Q-89. Do the competition requirements apply to each individual purchase, or can they be leveraged for strategic sourcing agreements, shared services arrangements, or other efficient uses of funds?

The competition requirements apply to broader procurement decisions. Section 200.318 paragraphs (d) and (e) encourage non-Federal entities to build into their procurement policies practices that consolidate procurements where appropriate to make most efficient use of Federal funds.

Q-90. Does the Uniform Guidance place requirements on non-Federal entities for charge card purchases under a Federal award?

Charge or purchase cards can be used for micro-purchases as long as the non-Federal entity has documented and approved procedures for such purchases. The micro-purchases threshold at the time of the publication of this FAQ is \$10,000. (See §200.320.)

Q-91. Can a non-Federal entity request a micro-purchase threshold for procurements higher than \$10,000?

Yes, non-Federal entities may establish a threshold higher than the Federal threshold established in the FAR. Guidance is provided in paragraphs (a)(1)(iv) and (v) of §200.320, which describe different requirements for thresholds up to \$50,000 and above \$50,000.

Q-92. How are formal procurements different from informal procurements?

In general, the main difference between informal and formal procurements is the amount of documentation that must be maintained by the non-Federal entity. Informal procurements refer to procuring property or services below the simplified acquisition threshold or a lower threshold established by the non-Federal entity such as micro-purchases and small-purchases. These methods are intended to expedite the completion of its transactions and minimize the associated administrative burden and cost. Formal procurements refer to procuring property or services above the simplified acquisition threshold or a lower threshold established by the non-Federal entity such as sealed bids and proposals (competitive). These methods generally require following documented procedures and public advertising. (See §200.320 and **Appendix A – Procurement “Claw”**.)

Q-93. Do the Uniform Guidance procurement standards apply to procurements made for indirect costs (i.e., hiring a plumber to fix a broken pipe in a shared use building)?

No. The Uniform Guidance procurement standards apply to only procurements for goods and services that are directly charged to a Federal award.

Q-94. Is the negotiation of profit mentioned in §200.324(b) required for all sole source procurements above \$10,000 up to the small purchase threshold of \$250,000?

No. Section 200.324(a) states that a cost or price analysis is required for procurement actions in excess of the Simplified Acquisition Threshold.

Cost Principles

- Q-95. Does §200.400(f) require recognition of the dual role of postdoctoral staff as both trainees and employees when appointed as a researcher on research grants?

Yes, section 200.400(f) requires the recognition of the dual role of all pre- and post-doctoral staff, who are appointed to research positions with the intent that the research experience will further their training and support the development of skills critical to pursue careers as independent investigators or other related careers. Neither pre- nor post-doctoral staff need to be specifically appointed in 'training' positions to require recognition of this dual role.

- Q-96. How does the usage of the term "profit" in §200.400(g) apply to Federal awards with or performed by nonprofit organizations?

Regardless of organization type, the guidance in §200.400(g) states that the non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award. This guidance is intended to make this long-standing requirement explicit for purposes of accountability and oversight.

- Q-97. What constitutes prior written approval for direct charging for administrative or clerical staff in §200.413(c)(3)?

Non-Federal entities should refer to the terms and conditions of their Federal award or inquire with the Federal awarding agency or pass-through entity to clarify the pre-approval process.

- Q-98. How does a non-Federal entity determine who has the authority to "legally bind" it in financial reports and payment requests?

It is up to the non-Federal entity to determine how best to establish the authority to legally bind the non-Federal entity, required in 2 CFR §200.415.

- Q-99. Would the costs of audits other than costs associated with the SAA, for example an internal audit division or legislative audit, be allowable?

Internal audit costs of the non-Federal entity are allowable when they support the Single Audit process. Therefore, the cost of internal audit reviews of the non-Federal entity's internal control effectiveness and efficiency to assure ongoing compliance with the Uniform Guidance and the terms of Federal award are allowable under §200.425(a).

Legislative audit costs, which are generally requested by the State government and not related to the Single Audit process, are not allowable.

- Q-100. Can a non-Federal entity that is required to have an audit conducted under the SAA allocate the cost for the financial statement audit as an allowable cost?

Yes. Section 200.514(b) requires that the Single Audit must include a determination of whether the financial statements of the auditee are presented in accordance with GAAP. Therefore, the

costs of auditing the financial statements are allowable for non-Federal entities subject to the requirements of the SAA.

Q-101. Are the costs for audits that aren't required by the SAA, such as performance audits, allowable?

No. The costs of audits that are not required by the SAA or Uniform Guidance Subpart F are not allowable under §200.425(a).

Q-102. If a non-Federal entity is exempted from the requirements of the SAA, would it be permissible to charge the costs of a financial audit under §200.425?

Yes. The costs of a financial statement audit, including those performed under GAGAS, by an entity exempted from the SAA, are not fully equivalent to audits conducted in accordance with the Single Audit Act Amendments of 1996. Accordingly, the costs of such financial statement audits are not prohibited by §200.425 and inclusion of a proportionate share of the cost of these audits may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

Q-103. Are the costs of services of an internal audit function of a non-Federal entity an allowable cost under the Uniform Guidance?

Yes. Internal audit functions and its related costs are allowable. The costs must be appropriately allocated to the indirect cost pool in an indirect cost rate proposal or cost allocation plan.

Q-104. Is it allowable for a non-Federal entity, using cash basis accounting with unfunded or unrecorded leave liabilities, to charge unused leave for employees that retire or are terminated?

No, this would not align with §200.431(b)(3)(i). Charging all unused leave costs for separating employees in the same manner as it had charged the employees' salary costs (i.e., directly to the activities on which the employees were working at the time of their separation) would result in inequitable distribution of the unused leave costs, because the leave costs were accumulated over the entire period of employment while working on various programs. In addition, having the last program bear the burden of these unbudgeted costs creates an unfair distribution of costs to this program. Therefore, any state, Local or Tribal government using the cash basis of accounting should allocate payments for unused leave, when an employee retires or terminates employment, in the year of payment as a general administrative expense to all activities of the governmental unit or component or, with the approval of the cognizant agency for indirect costs, the costs can be included in fringe benefit rates.

Q-105. How can prior approval for costs associated with an exchange rate (2 CFR §200.440) be obtained when it may fluctuate on a daily basis as expenditures occur?

Prior approval is not required every time the exchange rate changes and a Federal award is charged. Approval of exchange rate fluctuations are required only when the change results in the need for additional Federal funding, or the increased costs results in the need to modify the scope or objectives of the project.

Q-106. Can the 50 percent of salaries and expenses for the Tribal council that can be included in the indirect cost calculation without documentation include the Chairman or equivalent?

Yes, provided these expenses are allocable to managing and operating Federal programs. (See §200.444(b).)

Q-107. Are interest costs for capitalized software development projects (2 CFR §200.449(b)(2)) only allowed for projects that are first capitalized in the non-Federal entity's fiscal years beginning on or after January 1, 2016?

Yes. Allowable interest costs for capitalized software development costs are limited to capital assets acquired on or after the non-Federal entity fiscal years beginning on or after January 1, 2016. This policy is consistent with prior transitions to allow interest expense (2 CFR §200.449(e) & (f)).

Q-108. Does the revised guidance account for GASB 87 Leases, which creates a new intangible asset (right-to-use)?

Yes. The revisions to the Uniform Guidance incorporated right-to-use leases under the cost principles under §200.465(e) *Rental costs of real property and equipment*.

Q-109. If a pass-through entity temporarily uses its own funds while waiting for its Federal award, is it required to reimburse subrecipient costs?

Yes. Any costs ultimately charged to a Federal award must comply with the terms and conditions of that Federal award, including the Uniform Guidance.

Q-110. Are costs incurred before a budget period after the initial budget period, but not accounted for in the accepted budget, at risk of being denied as pre-award costs?

The recipient incurs pre-award costs at their own risk and should work with their Federal awarding agency to determine the costs allowability.

Administrative, Indirect, and Facilities Costs

Q-111. Are indirect costs and administrative costs considered the same, particularly when a Federal statute places a limit or a cap on administrative costs?

It depends on the treatment of the costs. The term administrative costs pertains to both indirect and direct costs, depending on whether the administrative support can be identified directly or indirectly to the cost objective. These costs can be both personnel and non-personnel, and both direct and indirect.

Direct administrative costs are associated with the overall program management and administration. They are not directly related to the provision of services to participants and are otherwise allocable to the program cost objectives. By contrast, indirect costs, such as rent and

accounting, are incurred by the entity and cannot be readily attributed to a specific program or Federal award because they are shared across all programs.

Any limitation or cap applies to the combined claims for indirect and direct administration costs. Generally, direct administration costs differ from indirect charges in that the latter are considered organization-wide costs. In some instances, administrative costs are allocable as a direct cost to a grant.

Q-112. Does an administrative cap mean capping both the “facilities and administrative” component of an indirect cost rate?

No. The terms “administrative costs” and “indirect costs” are sometimes used interchangeably. Therefore, you should review the authorizing program statute to determine if it has a definition of administrative costs and if it aligns with the costs that are contained in the F&A rate. If it aligns and the recipient is not incurring direct administrative costs, then all administrative costs that are part of the F&A rate must also align with any cost limitation specified in the program or grant in which these costs are being applied.

Q-113. Will OMB provide a Federal-wide website for its approach of making indirect costs public or it is up to each Agent/Bureau for implementation?

USASpending.gov was designated as this website in M-21-03, *Improvements in Federal Spending Transparency for Financial Assistance*. OMB will work with the Federal community to make the data publicly available. (See §200.414(h).)

Modified Total Direct Costs

Q-114. If a non-Federal entity’s last negotiated indirect cost rate was 9 percent MTDC, and the rate has since expired, can the organization elect to use the de minimis rate going forward?

Yes. Please inform your cognizant agency for indirect costs that you will be switching to the de minimis rate and will not be submitting indirect cost proposals for future years. Negotiated provisional rates and fixed rates need to be resolved and the carry-forward for the last year of the fixed-rate will need to be resolved with the cognizant agency for indirect costs.

Q-115. Does a non-Federal entity using the de minimis rate need to provide documentation to substantiate its costs?

No. The de minimis rate was designed to reduce burden for small non-Federal entities. The non-Federal entity must report in its SEFA whether it elected to use the de minimis rate for its Federal awards. See §§ 200.414(f) and 200.510.

Q-116. If the subaward is made up of several individual funding agreements, does each individual subaward require including up to \$25,000 in the MTDC base?

The allowance of \$25,000 is for one time during the period of performance of each individual subaward.

Q-117. Is the MTDC applied to the first \$25,000 for an award's period of performance or is it applied to each year of a multi-year agreement?

The allowance of \$25,000 is for one time during the period of performance of each individual subaward.

Q-118. Can a pass-through entity that paid actual or negotiated indirect costs to a subrecipient later impose the 10 percent de minimis rate on future subawards to the same subrecipient?

The 10 percent de minimis rate is for non-Federal entities that do not have a current negotiated indirect cost rate (including provisional).

- If a pass-through entity paid negotiated or actual indirect costs to a specific subrecipient in the past, they should continue to negotiate and award indirect costs to that subrecipient in accordance with their prior practice.
- If a pass-through entity does not have a current awarded or negotiated actual indirect costs with that subrecipient, then the pass-through entity can provide the 10 percent de minimis rate or negotiate a rate with that subrecipient.

Q-119. Can a Federal awarding agency or pass-through entity restrict recipients or subrecipients use of indirect costs to the de minimis rate?

No. Federal awarding agencies and pass-through entities must recognize a federally approved negotiated indirect cost rate.

Q-120. If a non-Federal entity allows its negotiated indirect cost rate to expire, is it eligible to request the de minimis rate?

Yes. Please inform your cognizant agency for indirect costs that you will be switching to the de minimis rate and will not be submitting indirect cost proposals for future years. Negotiated provisional rates and fixed rates need to be resolved and the carry-forward for the last year of the fixed-rate will need to be resolved with the cognizant agency for indirect costs.

Q-121. If an organization elects to use the de minimis rate at the beginning of an award, is it applicable to the award's entire period of performance?

The de minimis rate may not be applicable during the entire period of performance of an award. If a non-Federal entity elects to negotiate an indirect cost rate and the negotiated rate begins prior to the end of an award's period of performance, they may apply the negotiated rate to the award. The non-Federal entity should inform their Federal awarding agency or pass-through entity of the change prior to incurring costs on the award.

Federal awarding agencies and pass-through entities are not required to reissue awards issued prior to the effective date of the indirect cost negotiation agreement. In fact, Federal agencies must use the IHEs' negotiated rates in effect at the time of the initial award throughout the life

of the Federal award.² Accordingly, the de minimis rate may be applicable to the period of performance of the award if the total award amount is known and made available to the organization at the time of award.

Q-122. Can a recipient conducting a single function, funded predominately by Federal awards, elect to charge the de minimis rate if they currently only charge direct costs to their awards?

No. If all costs are charged directly to the Federal award (e.g., space costs, utility and administrative costs), the recipient must not also charge the de minimis rate. Costs must be consistently charged as either indirect or direct cost, and may not be double-charged or inconsistently charged.

Negotiated Indirect Cost Rates

Q-123. Do Federal agencies have guidelines regarding documentation requirements for negotiating indirect cost rates?

Yes. Federal agencies vary in their requirements for negotiating indirect cost rates. In addition to requirements in 2 CFR Part 200, Appendices III, V, VI, and VII, Federal awarding agencies may require additional documentation for negotiating indirect cost rates. A non-Federal entity should consult with its cognizant agency for indirect costs regarding documentation requirements. Below is a non-exhaustive listing of Federal agency guidance on indirect costs.

Agency	Website
U.S. Department of Labor	https://www.dol.gov/agencies/oasam/centers-offices/office-of-the-senior-procurement-executive/cost-price-determination-division
U.S. Department of Health and Human Services	https://rates.psc.gov/
U.S. Department of the Interior	https://www.doi.gov/ibc/services/finance/indirect-cost-services
National Science Foundation	https://www.nsf.gov/bfa/dias/caar/docs/idcsubmissions.pdf
U.S. Department of Education	https://www2.ed.gov/about/offices/list/ocfo/fipao/icgindex.html
U.S. Department of Agriculture <i>National Institute of Food and Agriculture</i>	https://nifa.usda.gov/indirect-costs
USAID	http://www.usaid.gov/work-usaid/resources-for-partners/indirect-cost-rate-guide-nonprofit-organizations

Q-124. If a subrecipient requests to negotiate an indirect cost rate, does the pass-through entity have to facilitate the negotiation to establish the rate?

The pass-through entity must determine the appropriate rate in collaboration with the subrecipient. See §200.332.

² See 2 CFR Part 200, Appendix III (C.7).

Q-125. If a pass-through entity negotiates indirect costs with a subrecipient, are all pass-through entities obligated to negotiate a rate with that subrecipient?

No. The pass-through entity must determine the appropriate rate in collaboration with the subrecipient. See §200.332.

Q-126. If there is a disagreement in the interpretation of negotiated indirect cost rates under the Uniform Guidance, how should this situation be resolved?

The Uniform Guidance includes processes and procedures for ensuring an objective and fair negotiation of rates. When there are areas of disagreement, non-Federal entities and their cognizant agency for indirect costs should follow the processes and procedures, and work toward resolving disagreements in a collaborative manner. OMB may be consulted when there are questions applicable to the interpretation of the Uniform Guidance.

Q-127. What are the documentation requirements for requesting an extension to a currently negotiated indirect cost rate?

The non-Federal entity should contact its cognizant agency for indirect costs.

Q-128. Can a non-Federal entity request an extension period shorter than the allowed four-years?

Yes. Requests for shorter periods are allowed and are subject to the approval of the non-Federal entity's cognizant agency for indirect costs.

Q-129. Are non-Federal entities eligible for multiple four-year extensions?

No. Only one extension (up to four years) of a non-Federal entity's current negotiated rate may be granted.

Q-130. When should a non-Federal entity contact the cognizant agency for indirect costs to request an extension of their currently negotiated indirect cost rate?

The non-Federal entity should contact its cognizant agency for indirect costs prior to the due date of its next indirect cost rate proposal submission.

Q-131. How might a non-Federal entity with negotiated fixed-rates with carry-forward effectively use the option for an extension of a current negotiated indirect cost rate?

A fixed-rate with carry-forward agreement cannot be extended. If a non-Federal entity with a fixed-rate with carry-forward agreement would like to request a one-time extension, it would need to first negotiate a final or predetermined rate. This rate could then be extended, subject to the approval of the cognizant agency for indirect costs. The carry-forward for the last year of the fixed-rate would need to be resolved in accordance with cognizant agency for indirect cost procedures.

Q-132. Can a Federal agency or pass-through entity allow a non-Federal entity with a negotiated indirect cost rate to voluntarily charge less than or waive their indirect rate to an award?

The non-Federal entity should consult with the Federal agency or pass-through entity. If a non-Federal entity receiving a Federal award or subaward voluntarily chooses to waive indirect costs or charge less than the negotiated indirect cost rate, Federal awarding agencies and pass-through entities may allow this. The decision must be made solely by the non-Federal entity that is eligible for indirect cost rate reimbursement, and must not be encouraged or coerced in any way by the Federal awarding agency or pass-through entity.

Q-133. What should a non-Federal entity do if a pass-through entity won't honor its federally negotiated indirect cost rate agreement?

The pass-through entity may be subject to the remedies for non-compliance specified in §200.339.

Q-134. Is it acceptable to require a subrecipient to accept a rate lower than the de minimis rate, or their negotiated F&A rate?

If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a subrecipient without a negotiated rate to accept less than the de minimis rate.

Q-135. When a pass-through entity uses Federal and its own non-Federal funds to make a subaward, can it allow an indirect cost rate only for the Federal portion of the subaward?

The non-Federal entity must apply the negotiated indirect cost rate consistently for Federal and non-Federal funds for making the subaward. See §200.400(e).

Utility Cost Adjustment (UCA)

Q-136. If a building is identified as a single function and its space is separately metered, can the building space be allocated using the effective square footage for the IHE's utility cost adjustment calculation?

No. If a building uses sub-metering for the single function space in the utility cost adjustment calculation, that same building may not use the effective square footage. Any buildings using this methodology in the utility cost adjustment calculation become part of the utility cost adjustment add-on, which in total is subject to a cap of 1.3 percent. IHEs may not sub-meter and allocate utility costs at a level lower than the building level in their actual cost proposal.

Q-137. Can a building be classified as a single function for organized research under the utility cost adjustment calculation?

No. Organized research is not applicable as a single function space because space at IHEs should not be 100 percent organized research. This is due to the nature of the activities at an IHE where students are often involved in the research activities or they spend time observing and learning.

For example, graduate students are generally still in their learning and studying phase, especially in their first two years. Therefore, the sharing of research related space by the instruction function must be considered, as well as an IHE's departmental research. Single function space is generally considered for the space in a building used for students only (classrooms, student housing, etc.), a library, or general administration offices.

Audit Requirements

Q-138. Does the determination of the Federal awards expended under §200.502(a) require that it is based on accrual accounting, regardless of the non-Federal entity's accounting practice?

No. The non-Federal entity may make this determination consistent with §200.502 and its established accounting method to determine expenditures including accrual, modified accrual, or cash basis.

Q-139. If a Federal awarding agency requests audited financial statements from a non-Federal entity not subject to the Single Audit, are they due 90 days after the end of the entity's fiscal year?

No. Aside from stipulating that audits may not be collected more frequently than annually, the Uniform Guidance under §200.504 does not specify deadlines in which audits other than the Single Audit must be submitted. Therefore, similar to performance reports, the Federal awarding agency has the discretion to determine the due date for collecting audited financial statements that is most effective for monitoring award outcomes.

Q-140. Would a non-Federal entity that organizes its SEFA by various departments within the entity be compliant with the requirement to list individual Federal programs by Federal agency?

Yes. The intent of the requirement for the SEFA in §200.510(b)(1) to list individual Federal programs by Federal Agency is to organize the schedule in the most readable and useful manner for Federal Agency purposes. Although non-Federal entities may organize the SEFA in an alternate way such as by state agency or departments of an organization, they should ensure that the SEFA is clear and organized.

Q-141. Are non-Federal entities required to include subtotals of expenditures by Federal agency in the SEFA?

No. Including subtotals of expenditures by Federal Agency is not an explicit requirement in §200.510(b) of the Uniform Guidance; however, including such subtotals is a best practice.

Q-142. If a non-Federal entity incurred expenditures under one program in a cluster of programs, must its SEFA identify the expenditure as part of a cluster of programs and provide the cluster name?

Yes. Section §200.510(b)(1) requires the name of the cluster of programs to be provided on the SEFA, regardless of whether the expenditures were incurred under only one program or multiple programs within the cluster of programs.

Q-143. Can an auditee fulfill its responsibility to prepare a summary schedule of prior audit findings and a corrective action plan by having its auditor prepare these documents?

No. An auditor must be independent of the auditee. Section 200.511 states that the auditee must prepare the summary schedule of prior audit findings and the corrective action plan. Therefore, the auditor should not prepare these documents for the auditee. The auditee must submit the corrective action plan on auditee letterhead.

Also, according to §200.511(c), the auditee must prepare the corrective action plan in a document that is separate from the auditor's findings. Therefore, an auditee may not simply reference the "views of responsible officials" section of the findings to fulfill its responsibility for the preparation of a corrective action plan. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.

Q-144. When do tribal entities meet eligibility for the exception of Indian tribes and tribal organizations under §200.512(b)(2)? Does this apply to all entities of an Indian tribe?

This determination is dependent on how the tribal entity is organized and reports under Subpart F of the Uniform Guidance. If the entity is established as part of an Indian tribe as defined in §200.1, accountable to tribal governance, and included with the Indian tribe's reporting under Subpart F; then the Indian tribe's election to opt out under §200.512(b)(2) would include the tribal entity. However, if the organization is established as a nonprofit organization outside of the tribe, it would not meet this definition. For example, a nonprofit organization as defined in §200.1 that files its Single Audit separately could not elect to opt out under §200.512(b)(2).

Q-145. Can an individual ask for a financial statement in accordance with §200.512(2)?

Any individual may ask for a non-Federal entity's single audit report (which includes financial statements) under the SAA. A non-Federal entity would be required to determine whether Federal statute provides an exception to the SAA and furnish the report accordingly.

Q-146. Can a non-Federal entity prepare its financial statements in accordance with the special-purpose framework rather than with GAAP?

Yes. While using GAAP to prepare financial statements is preferable, some non-Federal entities use a special-purpose framework (e.g., cash, modified cash, or regulatory) either voluntarily or because they are required to do so by law or regulation. According to American Institute of Certified Public Accountants (AICPA) auditing standards, auditors' reports on any special-purpose framework presentations are required to include an emphasis of matter paragraph stating that the financial statements are not in accordance with GAAP. While not an opinion per se, such a statement would meet the intent of §200.515(a). In other cases where a non-Federal entity is using a regulatory basis of accounting for general use purposes, AICPA auditing standards require auditors' reports to include an adverse GAAP opinion, in addition to an

opinion on the special-purpose framework being used. This type of report wording would also meet the intent of §200.515(a). Non-Federal entities and their auditors should note, however, that §200.520 would preclude low-risk auditee status for non-Federal entities that are using a special-purpose framework if such framework is not required by state law.

Appendix A – Procurement “Claw”

Procurement “Claw” (Sections 200.317-326)



Procurement “Claw” (Section 200.320)

