

OFFICE OF THE STATE CONTROLLER

**GUIDE FOR STATE AGENCY
COMPLIANCE WITH**

**THE OMB UNIFORM GUIDANCE
(2 CFR PART 200)**

As of March 5, 2018

TABLE OF CONTENTS

- A. How to Use this Guide
- B. State Pre-Award Considerations
- C. State Award Considerations
- D. State Post-Award Considerations
- E. Cost Principles

Appendix

Acronyms and Definitions

Other Reference Documents Available at the OSC Website

1. [Grant Agreement Template](#) and [Intergovernmental Grant Agreement Template](#) (including Supplemental Federal Provisions)
2. OSC Policy "[Procurement Conflicts of Interest](#)"
3. [Sample Subrecipient v. Contractor Determination Tool](#)
4. OSC Policy "[Grant Contracts – Federal Subrecipient](#)"
5. OSC Policy "[Model Contracts](#)"
6. [Sample Risk Assessment Tool](#)
7. [Office of the State Controller OMB Subrecipient Guidance](#)
8. [Office of the State Controller Guide for Monitoring Subrecipients](#)

A. HOW TO USE THIS GUIDE

All Office of Management and Budget (OMB) guidance related to Federal Awards is consolidated in Title 2 of the CFR, Subtitle A, Chapter II, Part 200. This “Uniform Guidance” is available for review at www.ecfr.gov under Title 2 - Grants and Agreements, Chapter 2, Part 200, Office of Management and Budget Guidance. The OMB has also provided an extensive set of [Frequently Asked Questions](#) (FAQ’s).

The Colorado Office of the State Controller (OSC) has issued this OSC Guide as its interpretation of new and revised requirements that are mandatory for administration of Federal Awards by the State, its Departments and Agencies, and Institutions of Higher Education (IHEs) who are subject to State Fiscal Rules. The State, its departments, institutions, agencies, and IHEs are referred to collectively in this Guide as “State Agencies”. Though all IHEs must follow the Uniform Guidance, those IHEs who are not subject to State Fiscal Rules are not required, but may elect, to comply with this Guide. All State Agencies except IHEs who are not subject to State Fiscal Rules must comply with this Guide.

The purpose of this Guide is to advise State Agencies of best practices for compliance with the Uniform Guidance, to develop a statewide approach to Uniform Guidance implementation, and to avoid the need for multiple, specific waivers from State Fiscal Rules and Procurement Rules where the Uniform Guidance conflicts with such Rules.

State Agencies are responsible for compliance with the Uniform Guidance as “Recipients” of Federal Awards, and as “Pass-through Entities” (PTEs) that provide Subawards to other non-federal entities to carry out part of a federal program. (2 CFR §200.74)

State Agencies must also follow existing procedures set forth in the Colorado Revised Statutes, State Procurement Code and Rules, State Fiscal Rules, Executive Orders, and the directives of the State Purchasing & Contracts Office. State Agencies are responsible as awardees and as PTEs of Federal Awards to ensure “that the Federal Award is used in accordance with federal statutes, regulations and the terms and conditions of the Federal Award”. (2 CFR §200.331(a)(2))

B. STATE PRE-AWARD CONSIDERATIONS

Applicability - The terms and conditions of Federal Awards flow down to Subrecipients unless a particular section of 2 CFR §200.101 or the terms and conditions of the Federal Award specifically indicate otherwise. Users of this Guidance should consult the table in 2 CFR §200.101 for the applicability of the Uniform Guidance to the types of Federal Awards.

Applicability to Modifications. If a Grant Agreement or Contract subject to the Uniform Guidance is renewed or otherwise modified after December 26, 2014 (the effective date of the Uniform Guidance), the terms and conditions of the Grant Agreement or Contract must be updated to be brought into compliance with the Uniform Guidance.

Federal Conflict of Interest Rules (2 CFR §200.110) - The Uniform Guidance requires written disclosure of a Subrecipient's potential conflicts of interest with the State or Federal Awarding Agency and of any violations of law by Subrecipient. (2 CFR §200.112) However, State Agencies are directed to consult the awarding Federal Agency for specific requirements. If the required information is not disclosed, then State Agencies or Federal Awarding Agencies may impose remedies that include suspension or debarment.

OSC's Conflict of Interest Policy. The OSC has issued a policy entitled "Procurement Conflicts of Interest" that applies to all Workers and Subrecipients, as defined in the policy, who receive funds from the State of Colorado. The policy applies to all employees and volunteers of the executive branch of State government, as well as Subrecipients who receive funds including pass-through funds from the State. The policy is available on the OSC website.

Subrecipient and Contractor Determination by State Agencies (2 CFR §200.330) - State Agencies must exercise judgment in the process of determining whether an entity is a Subrecipient or a Contractor. The substance of the relationship is more important than the form of the agreement. State Agencies should use the sample "Subrecipient v. Contractor Determination Tool" available at the OSC website, a similar tool, or some other method to document the State Agency's determination.

Subrecipient (2 CFR §§200.93 and 200.330) - A Subrecipient (recipient of a grant derived from a Federal Award) has the following characteristics:

- Determines who is eligible to receive what federal assistance,
- Has its performance measured against whether the objectives of the federal program were met,
- Has responsibility for programmatic decision-making authority,

- Is responsible for adherence in applicable federal program requirements specified in the Federal Award, and
- In accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the PTE.

Contractor (2 CFR §§200.23 and 200.330) - A Contractor (recipient of payment pursuant to a Contract) has the following characteristics:

- Provides the goods and services within a normal business operation,
- Provides similar goods and services within a normal business operation,
- Normally operates in a competitive environment,
- Provides goods and services that are ancillary to the operation of the federal program, and
- Is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

OSC's Recommended Approach to Determination.

Three Questions

#1 Type of transaction, is it an Exchange or Non-exchange?

- **Exchange = Contract** (Each party receives equal value)
- **Non-exchange = Grant** (State gives value without receiving direct equal value in return)

#2 What is the responsibility of the Recipient?

- Provide a service or deliver good = Contract
- Program responsibility (eligibility, performance measures, programmatic decision making) = Grant
- Provide both service and program responsibility = Grant

#3 Is this fixed price or reimbursement?

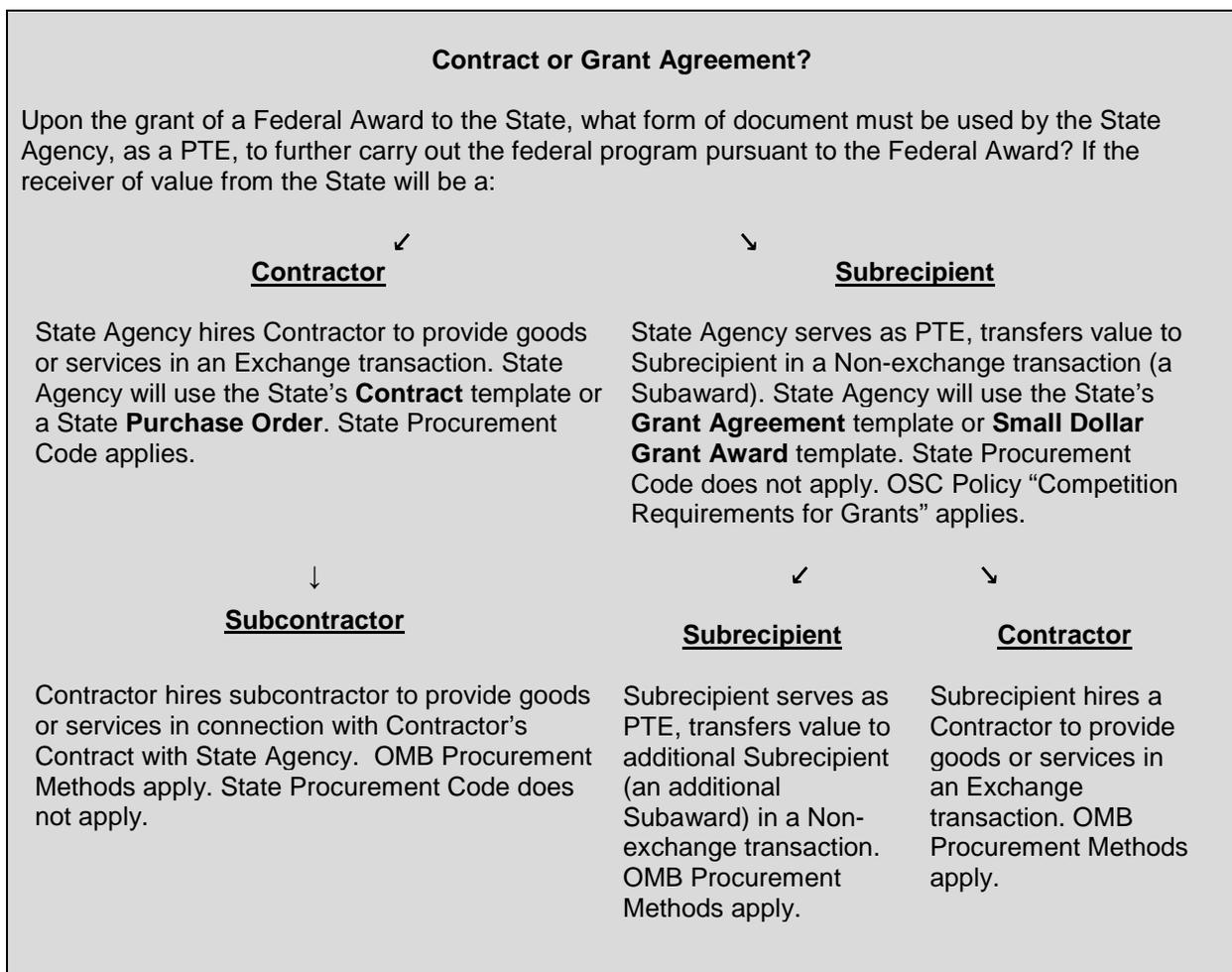
- Fixed Price = Contract
- Cost Reimbursement = Grant

C. STATE AWARD CONSIDERATIONS

Procurement Standards (2 CFR §§200.317 to 200.326) - The State, by and through the Office of the State Controller, has elected to postpone application of new provisions of the Uniform Guidance, as permitted, until July 1, 2018. See the “Office of the State Controller OMB Subrecipient Guidance” available at the OSC website.

Contracts - If State Agencies determine that the receiver of value from the State will be a Contractor, they must follow the Procurement Code when procuring goods and services under a Federal Award. (2 CFR §200.317) The terms of a Federal Award to the State do not flow down to a Contractor with whom the State contracts for any part of the performance under the Federal Award.

Grant Agreements - If State Agencies determine that the receiver of value from the State will be a Subrecipient, they must negotiate Grant Agreements, as defined in State [Fiscal Rules](#), to grant funds for goods, personal services, capital construction or any other public benefit, depending on the nature of the Federal Award. However, do not use Grant Agreements when merely distributing Federal Award funds to the ultimate beneficiaries of the Award. Distributions to beneficiaries of the Award may or may not require additional documentation depending on the requirements of the program.



OSC Approval of Grant Agreements (CRS §24-30-202) - State law requires that there be no disbursement of funds by the State absent a commitment voucher (including Grant Agreement) that has been examined and approved by the OSC. The OSC has issued a policy entitled “Grant Agreements – Federal Subrecipient” that outlines the conditions under which it must approve and sign Grant Agreements upon receipt of an Advice or Notice of Federal Award.

Templates. State Agencies must use the Grant Agreement template available at the OSC website for Subawards of Federal Awards to Subrecipients.

The OSC website includes an Intergovernmental Grant Agreement template (with required Supplemental Federal Provisions) for use by a State Agency if its Subrecipient is to be a political subdivision of the State.

The OSC website also includes the terms and conditions for a small dollar grant (with required Supplemental Federal Provisions) for use in lieu of either a Grant Agreement or Intergovernmental Grant Agreement, if the dollar amount to be transferred to State’s Subrecipient falls within the monetary limits for use of such terms and conditions under State [Fiscal Rules](#).

D. STATE POST-AWARD CONSIDERATIONS

Internal Controls - Recipients and Subrecipients must establish and maintain effective internal control over the Federal Award that provides reasonable assurance that the non-federal entity is managing the Federal Award in compliance with federal statutes, regulations, and the terms and conditions of the Federal Award. Internal controls must fully comply with guidance contained in “Standards for Internal Control in the Federal Government” (commonly referred to as the “Green Book,” issued by the Comptroller General of the U.S.). (2 CFR §200.303)

“Internal controls” means a process, implemented by a non-federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations,
- Reliability of reporting for internal and external use, and
- Compliance with applicable laws and regulations. (2 CFR §200.61)

OSC Adoption of Internal Control Standards. Based on 2 CFR §200.303, the OSC has adopted the “Standards for Internal Control in the Federal Government” (the “Green Book”) as the standard for internal control for Federal Awards to State Agencies (see the OSC policy, “Internal Control System” available on the OSC website). State Agencies must follow the Green Book to maintain effective internal control related to administering federal grant funding.

Payment and Advance Payment - The State PTE is not required to make advance payments pursuant Federal Awards passed through to Subrecipients. Pursuant to 2 CFR §200.305(a), State payments are governed by Treasury-State Cash Management Improvement Act agreements (CMIA agreements) and the default procedures codified at 31 CFR Part 205 for rules on efficient transfer of federal funds.

OSC Exception to State Fiscal Rule. The OSC and State Fiscal Rules generally prohibit advance payments, however, the [Fiscal Rules](#) allow an exception for federal grants awarded by the State to subgrantees in compliance with federal requirements that may be included in the Federal Award itself. (2 CFR §200.305)

Responsibilities of State Agencies - State Agencies have the following responsibilities regarding Subrecipients (which are not necessarily required with Contractors):

- Require Subrecipients to submit regular performance reports, within 90 days after annual reporting periods and within 30 days after quarterly or semi-annual reporting periods. (2 CFR §200.328(b)(1))
- Require Subrecipients to compare actual accomplishments to the objectives of Federal Awards, and provide explanations of variance in program objectives and fund maximization. (2 CFR §200.328(b)(2))
- Hold Subrecipients responsible for compliance with applicable federal, State and local program requirements, rules, policies and guidance. (2 CFR §200.331(a)(2))
- Verify that all Subrecipients are audited in accordance with 2 CFR §200, Subpart F—Audit Requirements, when the \$750,000 threshold has been met or exceeded. (2 CFR §200.331(f))
- Consider whether Subrecipient audit results, on-site monitoring reviews, or other monitoring activities indicate conditions that require adjustments to the State PTE's own related records. (2 CFR §200.331(g))
- Monitor Subrecipient entities for programmatic and fiscal compliance with applicable program requirements to ensure that the Subaward is used for authorized purposes, that the Subrecipient complies with federal statutes and regulations, and that the terms and conditions of the Federal Award and performance goals are achieved. (2 CFR §§200.331(a)(2) & (d))
- Include in Grant Agreements the proper terms and conditions for determining allowability of indirect cost rates. (2 CFR §200.414)

OSC Interpretation of OMB Procurement Standards. State Agencies, as PTEs, are responsible for ensuring that their Subrecipients who either (i) hire a Contractor to provide goods or services, or (ii) make Subawards to Subrecipients use one of five methods of procurement as outlined in the Uniform Guidance (2 CFR §200.320, the “CLAW”). Even if only a portion of the grant funds are federal grant funds, the State Agency is responsible for ensuring that its Subrecipient applies the CLAW. For further information on following the Uniform Guidance’s procurement standards, see the “Office of the State Controller OMB Subrecipient Guidance”, available at the OSC website.

The CLAW, however, does not apply to a State Agency when the State Agency directly hires a Contractor to provide goods or services under a Federal Award through a Contract. In these instances, State Agencies must follow the methods, policies, and procedures of the State Procurement Code. (2 CFR §200.317)

Nor does the CLAW apply to State Agencies when State Agencies, as PTEs, make Subawards to Subrecipients. In this instance, the State Agency’s grant to a Subrecipient is subject to neither the CLAW nor the State Procurement Code, but is subject to the OSC Policy “Competition Requirements for Grants”.

The State Agency exemption from following the CLAW applies to State Agencies regardless of whether the State Agency is the original Recipient of the Federal Award or a Subrecipient passing through funds to another State Agency.

Risk Assessment - A PTE must evaluate each Subrecipient’s risk of noncompliance with federal statutes, regulations, and terms and conditions of the Subaward for purposes of determining the appropriate Subrecipient monitoring. (2 CFR §200.331(b)) The PTE must administer the Uniform Guidance risk assessment only after selection of Subrecipients is complete, i.e., after the Subrecipient has met all criteria for receiving the Subaward.

Risk Assessment of a State Agency. State Agencies, as Subrecipients of State Agency PTEs, shall be considered ‘low’ risk for purposes of compliance with 2 CFR §200.331(b). Any change will be communicated through the Office of the State Controller.

The Uniform Guidance risk assessment is not part of the process for determining which entities will receive Subawards.

Risk Assessment Tool. State Agencies should use a risk assessment tool as the basis for assigning an appropriate level of monitoring of Subrecipients. A sample “Risk Assessment Tool” is available at the OSC website. Risk assessments may be performed using the sample Risk Assessment Tool, a similar tool, or some other method that measures the risks associated with providing federal grant funds to a Subrecipient.

Subrecipient Monitoring and Performance Reporting - Each State Agency must evaluate and monitor its Subrecipient’s compliance with federal statutes and regulations; the terms and conditions of the Subaward; and the Subrecipient’s progress in achieving performance goals. (2 CFR §200.331(d)) Each State Agency must consider initiating enforcement actions against non-compliant Subrecipients. (2 CFR §200.338)

Monitoring of Subrecipients includes reviewing financial and programmatic reports required by the State Agency Recipient; following up and ensuring that Subrecipients take timely and appropriate action to remediate all deficiencies related to the Federal Award provided to the Subrecipient that were disclosed through audits, on site reviews, or other means; and issuing management decisions for audit findings associated with a Federal Award. (2 CFR §200.331(d)) All management decisions must clearly state whether or not related audit findings are sustained, the reasoning behind conclusions, and the expected Subrecipient response to repay disallowed costs, make financial adjustments, or take other actions as appropriate. (2 CFR §200.521(a), (c))

Management Decisions. State Agency PTEs are not required to issue management decisions to other State Agency Subrecipients due to the fact that there is a statewide pro-active process in place for the timely remediation of audit findings found at State entities and the implementation of associated recommendations.

Depending on the PTE’s assessment of risk posed by a Subrecipient, the following monitoring tools may be useful for managing risks. State Agencies are encouraged to use these tools to the greatest extent possible:

- Providing Subrecipients with training and technical assistance on program-related matters,
- Performing on-site reviews of the Subrecipient’s program operations,
- Arranging for agreed upon procedures as provided for in 2 CFR §200.425(c).

The Uniform Guidance requires Recipients/Subrecipients to submit performance reports required by the Federal Awarding Agency/PTE. The purpose of such reports is to inform on improvements in program outcomes and productivity. This reporting should be formally documented and include the essential information as prescribed in the Uniform Guidance. (2 CFR §200.328)

An “Office of the State Controller Guide for Monitoring Subrecipients” is available at the OSC website.

Closeout - The Uniform Guidance requires Recipients and Subrecipients to submit all reimbursement requests, and financial, performance and other reports, within 90-days after the end-date for performance. (2 CFR §200.343)

OSC Recommended Closeout Term. To meet the 90-day deadline, the OSC Grant Agreement template allows Subrecipients 45 days to submit all documentation to the State Agency.

Record Retention Period - The Uniform Guidance at 2 CFR §200.333 mandates retention of records for a period of three years from the date of submission of the final expenditure report for a Federal Award, as such date is reported to the Federal Awarding Agency. For a Subaward the three year record retention period begins at the date of submission of the final expenditure report by the Subrecipient to the PTE. For Federal Awards or Subawards that are renewed quarterly or annually, the three year record retention period begins on the date of the submission of the quarterly or annual financial report. If litigation or an audit is started before the expiration of the three year period, the records must be retained until all litigation or audit findings have been resolved. Federal Awarding Agencies and PTEs may not impose any other record retention requirements upon non-Federal entities, except as specifically provided in the Uniform Guidance.

Audit Requirements - Under the Uniform Guidance, the threshold for requiring single audits is \$750,000. State Agencies should be aware of federal requirements for monitoring the activities of Subrecipients and Contractors, and must fully comply with these requirements when applicable. (2 CFR §200.331) Single or program-specific audits are required for all Subrecipients that receive \$750,000 or more in Federal Awards during a fiscal year. (2 CFR §200.501) As a result, State Agencies must ensure that their Subrecipients have an audit performed if they meet or exceed the \$750,000 threshold per fiscal year.

Guidance on determining Federal Awards expended is provided in 2 CFR §200.502. The determination of when a Federal Award is expended is based on when the activity related to the Federal Award occurs. The disbursement of funds to a Subrecipient is an event that triggers recognition of the expenditure. (2 CFR § 200.502(a))

Auditee Responsibilities (2 CFR §200.508) - State Agencies must comply with auditee responsibilities for audits mandated by 2 CFR §200. The audits may be performed by Federal Agencies, outside auditors, and/or the Office of the State Auditor. The auditee is responsible for the requirements related to follow-up and corrective action on all audit findings, including the implementation of associated audit recommendations. This requirement includes preparation of a summary schedule of the

status of prior year audit findings and corrective action plan to remediate current year audit findings and implementation of associated recommendations. (2 CFR §200.511)

OSC Interpretation of Auditee Responsibilities. To comply with Uniform Guidance requirements for preparing a “Summary Schedule of Prior Audit Findings” all State Agencies must respond to the OSC’s related annual data request. The data request requires completion of the “Schedule of Prior Year Audit Recommendation Status as of June 30” (Exhibit K3) of the current fiscal year. The OSC also annually summarizes current year data received from State Agencies on their approved corrective actions taken or planned in compiling the State’s “Corrective Action Plan”. Both the Summary Schedule of Prior Audit Findings and the Corrective Action Plan are part of the State’s reporting package submitted by the OSC to the Federal Audit Clearinghouse and to the U.S. Department of Education via eZ-Audit.

Compliance Supplement - The OMB has issued a Compliance Supplement dated April 2017 to be used for audits of fiscal years beginning after June 30, 2016. The auditors’ use of the Supplement is mandatory.

Recipients should review 2 CFR §200, Subpart F, Appendix XI, Compliance Supplement. This supplement is designed to provide information to auditors to assist in determining compliance requirements that are relevant to an audit, audit objectives, and suggested audit procedures associated with Federal Awards. The information in the supplement is also useful to auditees in understanding the compliance requirements and what to expect during an audit.

OSC Interpretation of Safe Harbor Status. It should be noted that the Compliance Supplement indicates it is not to be considered a “safe harbor” for identifying the audit procedures that will apply to any particular Federal Award. The auditor may consider the Supplement to be a safe harbor only upon taking certain steps such as considering whether alternative audit procedures are necessary and updating or augmenting requirements as appropriate.

E. COST PRINCIPLES

Uniform Guidance, Subpart E, 2 CFR §§200.400-475, contain the cost principles applicable to Federal Award Recipients, Subrecipients, and PTEs. Instructions relate to developing and negotiating Indirect Cost Rate Proposals (ICRP) and Facilities and Administration Rates (F&A), State Wide Cost Allocation Plans (SWCAP) and Public Assistance Cost Allocation Plans (PACAP), which are presented in separate appendices (Uniform Guidance, Appendices III – VII).

The Objectives:

- Provide guidelines for reimbursement requirements,
- Provide uniform standards for allowability and allocation,
- Provide that Federal Awards bear their fair share of cost,
- Simplify intergovernmental relations, and
- Does not supersede limitations imposed by law.

Types of Costs:

- Allowable → To be allowable as a charge to a Federal Award, a cost must meet a number of criteria. Allowable costs must be documented, necessary, reasonable, allocable, conform to limitations, in accordance with GAAP, net of applicable credits, and consistent with organization's policies uniformly applied to all activities. (2 CFR §§200.403-406) These criteria are discussed further below.
- Unallowable → Unallowable costs are not allowable as charges to Federal Awards. Examples include advertising and public relations, alcoholic beverages, contingencies, contributions and donations, prosecution of criminal activities, entertainment, fines, penalties, general government expenses and lobbying costs Unallowable costs are listed at 2 CFR §200.400, Subpart E – Specific Items of Cost.
- Direct → Direct costs are those costs directly related to the purpose of a Federal Award. Direct costs can be identified specifically with a particular final cost objective. Typical costs that may be charged directly to a Federal Award include personal service and other costs incurred for the Federal Award. (2 CFR §200.413)
- Indirect → Indirect costs are costs that cannot be linked directly to a Federal Award. Indirect costs are those costs incurred for a common purpose benefitting more than one cost objective. Examples include overhead expenses such as rent and utilities, among other expenses. Indirect Costs are assignable to the cost objective with an allocation to distribute among objectives in reasonable proportion to the benefit received. This proportion is expressed as an indirect cost rate, a percentage of non-direct costs chargeable to a Federal Award.

Factors Affecting Allowability of Costs (2 CFR §§200.403-406) - To be allowable, costs must meet all of the following requirements:

- Be necessary and reasonable, conforming with federal law, guidelines and terms of the Federal Award'
- Be consistent with organizational policies and procedures uniformly applied to federal and non-federal activities,
- Be accorded consistent treatment (a cost may not be assigned to a Federal Award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal Award as an indirect cost).
- Be determined in accordance with generally accepted accounting principles (GAAP),
- Not be used for cost sharing or matching requirements of any other federally-financed program,
- Be net of all applicable credits, and
- Be adequately documented using sound management techniques.

Uniform Guidance Selected Items of Cost (2 CFR §§200.420-475) - The Uniform Guidance, at 2 CFR §§200.420-475, identifies selected items of cost, and discusses their proper treatment as direct, indirect, allowable, unallowable, or allocable.

OSC Notice of Changes in Allowability. The Uniform Guidance adds some allowable costs, including such items as collection of improper payments, exchange rate fluctuations, proposal costs, certifications, and depreciation of intellectual property. It also eliminates some previously allowable costs including such items as specific staff positions (academic deans), labor relations costs, and use allowances on buildings and equipment.

Administrative Costs (2 CFR §200.413) - Salaries of administrative and clerical staff are normally indirect costs, unless:

- Such salaries are integral to the project,
- Individuals can be specifically identified,
- Such salaries are explicitly included in the budget or otherwise approved, and
- Such costs are not otherwise recovered.

Time and Effort Reporting (2 CFR §200.430(i)) - The Uniform Guidance provides that labor records must be supported by a system of internal controls. Salaries and wages must be based on records that accurately reflect the work performed. These records must be supported by a system of internal controls that provides reasonable assurance that the charges are accurate, allowable, and properly allocated.

OSC Recommendation on Time and Effort Reporting. State Agencies should continue to use their historical methods for time and effort reporting. Upon implementation of the State's new payroll system, HRWorks, State Agencies will be required to do time and effort reporting through the new system. IHEs who are not subject to State Fiscal Rules and do not use the State payroll system may continue to use their historical methods.

Indirect (Facilities and Administration) Costs (2 CFR §200.414) - As PTEs, State Agencies must include in Grant Agreements the proper terms and conditions for determining allowability of indirect cost rates. An indirect cost rate is required if a Recipient or Subrecipient has a Federal Award for direct cost reimbursement, has more than one funding source, and wishes to request reimbursement of indirect costs. There are three options for recognizing indirect costs:

- Use a current, federally-approved indirect cost rate negotiated between the Subrecipient and the Cognizant Federal Agency, if such a rate exists,
- If no negotiated indirect cost rate exists, a PTE must either use a rate negotiated between the PTE and the Subrecipient, or
- Use the *de minimis* rate of 10% of modified total direct costs under 2 CFR §200.414.

10% *de minimis* Rate. If a State Agency has ever obtained a negotiated indirect cost rate, the *de minimis* rate may not be used. Only State Agencies that have never received a negotiated indirect cost rate may elect to charge the *de minimis* rate. If the *de minimis* rate method is chosen, it must be used by the State Agency for all Federal Awards until such time as the State Agency chooses to negotiate a rate. If a State Agency using the *de minimis* rate chooses never to negotiate a rate, the *de minimis* rate may be used indefinitely. State Agencies that receive more than \$35 million of direct federal funding per year are disqualified from using the 10% *de minimis* rate, and must, therefore, submit an Indirect Cost Rate Proposal to its Cognizant Federal Agency and negotiate a rate.

Cost Allocation Plans/ Indirect Cost Rate Proposals (2 CFR §200.416) - To recover indirect costs on Federal Awards, a Recipient or Subrecipient must have either a Cost Allocation Plan or an Indirect Cost Rate Proposal.

Tools to Recover Indirect Costs:

Statewide:

- Statewide Indirect Cost Allocation Plan (Uniform Guidance, Appendix V), and
- Statewide Appropriations/Cash Fees Plan (Prepared for the State's budget).

State Agency:

- Indirect Cost Rate Proposal (ICRP) (Uniform Guidance, Appendix IV),
- Public Assistance Cost Allocation Plan (PACAP) (Uniform Guidance, Appendix VI), and
- 10% *de minimis* Rate (2 CFR §200.414).

OSC's Policy for Reporting of Indirect Cost Recoveries. Indirect Costs should be recorded when earned in separately identifiable accounts.

Reporting of Indirect Excess Recovery Fund. Each State Agency must transfer any excess revenue collected that exceeds the amount expended to the Excess Indirect Recovery Fund pursuant to CRS §24-75-1401. OSC will annually report the revenues, expenditures and fund balance in each State Agency's account for this fund to the Joint Budget Committee and the General Assembly on or before November 1st of each year. Indirect Costs should be recorded when earned in separately identifiable accounts.

Required Certifications (2 CFR §200.415) - Annual and final fiscal reports or vouchers requesting payment under Federal Awards must include a certification, signed by an official who is authorized to legally bind the PTE and Subrecipient. Cost allocation plans and Indirect Cost Rate Proposals must be certified by authorized financial officer. In the case of Subrecipients that are not governmental entities, the certifying officer must be someone no lower than a vice president or chief financial officer.

APPENDIX

ACRONYMS AND DEFINITIONS

The following capitalized terms are provided for general reference throughout this Guidance, and additional definitions are provided within some of the Guidance sections. For definitions in the Uniform Guidance, see 2 CFR §200.0 to §200.099).

CFR - The Code of Federal Regulations.

Closeout - The process by which a Federal Awarding Agency or PTE determines that all applicable administrative actions and all required work of the Federal Award have been completed and takes actions as described in 2 CFR §200.343 Closeout of the Uniform Guidance. (2 CFR §200.16)

Colorado Procurement Code - Articles 101 to 112 of Title 24 of the Colorado Revised Statutes.

CMIA - The Cash Management Improvement Act of 1990, which provides the general rules and procedures for the efficient transfer of funds for federal financial assistance programs between the federal government and the states.

Cognizant Federal Agency - The cognizant Federal Agency for indirect costs responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under 2 CFR Part 200 on behalf of all Federal Agencies. (2 CFR §200.19)

Contract - A legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a Federal Award. The general term "Contract" is distinguished from the legal instrument employed when the substance of the transaction meets the definition of a Federal Award or Subaward. (2 CFR §200.22), which is instead called a Grant Agreement. (2 CFR §200.22)

Contractor - An entity that receives a Contract. (2 CFR §200.23)

Cooperative Agreements - An agreement where there is substantial, continuing involvement between the Federal Awarding Agency or PTE and a non-federal entity in carrying out the activity contemplated by the Federal Award. A Cooperative Agreement is not considered a type of grant. (2 CFR §200.24)

CRS - The Colorado Revised Statutes.

Federal Agency - An agency, as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f). (2 CFR §200.35)

Federal Awarding Agency - The Federal Agency that provides a Federal Award directly to a non-federal entity. (2 CFR §200.37)

Federal Award - An award of federal financial assistance or a commitment for cost-reimbursement under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. A Federal Award does not include other contracts that a Federal Agency uses to buy goods or services from a Contractor. (2 CFR §200.38)

Grant – An agreement in which a governmental body as grantor transfers anything of value to a grantee to carry out a public purpose of support or stimulation authorized by law instead of acquiring property or services for the direct benefit or use of that governmental body. A grant may include a distribution of funds. (CRS §24-101-301 (19))

Grant Agreement – A legal instrument of financial assistance between a Federal Awarding Agency or PTE and a non-federal entity that is consistent with 31 USC 6301, 6304. The principal purpose of the Grant Agreement is to transfer anything of value from the Federal Awarding Agency or a PTE to a non-federal entity to carry out a public purpose authorized by a law of the United States; and not to acquire property or services for the direct benefit of the Federal Awarding Agency or PTE. A Grant Agreement does not include an agreement that provides only direct federal cash assistance to an individual (a beneficiary), a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. (2 CFR §200.51)

Guidance - This Colorado State Controller Guidance to State Agencies regarding compliance with the 2013 OMB Omni Circular (2 CFR Part 200).

OMB - The Executive Office of the President, Office of Management and Budget.

OMB Procurement Methods - Following five methods of procurement described in the OMB Uniform Guidance; micro-purchase; small purchase; sealed bids; competitive proposals. (2 CFR §24-50-502(3))

OSC - Office of the State Controller.

Pass-through Entity (PTE) - A non-federal entity that provides a Subaward to one or more Subrecipients to carry out part of a federal program. Where the State is the Recipient of a Federal Award that will be subsequently awarded to one or more Subrecipients, the PTE, for purposes of the Uniform Guidance, shall be the specific State Agency that administers and monitors the Subawards. (2 CFR §200.74)

Project Cost - Total allowable costs incurred under a Federal Award and all required cost sharing and voluntary committed cost sharing, including third-party contributions. (2 CFR §200.83)

Recipient - A non-federal entity that receives a Federal Award directly from a Federal Awarding Agency to carry out an activity under a federal program. The term “Recipient” does not include Subrecipients. (2 CFR §200.86)

State - The State of Colorado.

State Agency - An executive department, institution, or other agency of the State. "State Agency" shall include institutions of higher education, except as otherwise provided in CRS §24-30-202(13)(b).

Subaward - An award provided by a PTE to a Subrecipient for the Subrecipient to carry out part of a Federal Award received by the PTE. A Subaward does not include payments to a Contractor or payments to an individual that is a beneficiary of a federal program. The form of agreement for a Subaward is a grant. (2 CFR §200.92)

Subrecipient - A non-federal entity that receives a Subaward from a Recipient to carry out part of a federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a Recipient of other Federal Awards directly from a Federal Awarding Agency. (2 CFR §200.93).

Uniform Guidance - The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.

CONTACTS

For further information regarding this Guide please contact:

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State Purchasing and Contracts Office
(303) 866-6100

STATE AWARD CONSIDERATIONS - Office of the State Controller
State Purchasing and Contracts Office
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STATE POST-AWARD CONSIDERATIONS - Office of the State Controller
Statewide Internal Audit Unit
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COST PRINCIPLES - Office of the State Controller
Indirect Cost and Federal Reporting
Manager
(303) 866-4344