

# TEA Statewide Training on the *New* EDGAR

## Day 1

Office for Grants and Federal Fiscal Compliance  
Texas Education Agency

March 2–3, 2015

Austin, Texas



# Agenda – Day 1

- ▶ Introduction
- ▶ Other Relevant Sections of EDGAR
- ▶ Subpart A—Acronyms and Definitions
- ▶ Subpart B—General Provisions
- ▶ Subpart C—Pre-Federal Award Requirements
- ▶ Subpart D—Post-Federal Award Requirements



# Introduction

Background and History  
Timelines and Important Dates  
Overview of the “New” EDGAR



# OMB Revisions

OMB Revised Administrative Rules, Cost Principles, and Audit Rules governing *all* “nonfederal entities” expending federal awards. (200.69)



# Focus

1. Reduce fraud, waste, and abuse
2. Simplicity and consistency
3. Executive order 13563 on regulatory review:
  - increase efficiency
  - strengthen oversight



# Current EDGAR

## Title 34

- ▶ Part 74—Grants to Nonprofit organizations
- ▶ Part 75—Direct Grant Programs
- ▶ Part 76—State-Administered Programs
- ▶ Part 80—Grants to State and Local Governments
- ▶ Part 81—General Education Provisions Act (GEPA)



# Current EDGAR (continued)

## Title 34

- ▶ Part 82—Lobbying
- ▶ Part 85—Debarment and Suspension
- ▶ Part 86—Drug and Alcohol Abuse Prevention
- ▶ Part 97—Protection of Human Rights
- ▶ Part 98—Student Rights in Research
- ▶ Part 99—FERPA



# Current EDGAR (continued)

## OMB Circulars and ARRA Regulations

- ▶ A-21—Cost Principles for Educational Institutions
- ▶ A-87—Cost Principles for State, Local, and Indian Tribal Governments
- ▶ A-122—Cost Principles for Non-Profit Organizations
- ▶ A-133—Audits of States, Local Governments, and Non-Profit Organizations
- ▶ 2 CFR Part 176—Awards Terms for Assistance Agreements that Include Funds Under the American Recovery and Reinvestment Act of 2009



# New EDGAR Title 2 CFR 200

<b>Now</b>	<b>Starting 12/26/2014</b>
Circulars A-89, A-102, A-110	Uniform Guidance Subparts B, C and D
Circulars A-21, A-87, A-122	Uniform Guidance Subpart E
Circulars A-133, A-50	Uniform Guidance Subpart F
EDGAR Parts 75 to 99	EDGAR Parts 75-79 and 81-99
EDGAR Parts 74 and 80	Become part of the Uniform Guidance



# New EDGAR

## Title 34

- ▶ Part 75—Direct Grant Programs
- ▶ Part 76—State-Administered Program
- ▶ Part 77—Definitions
- ▶ Part 81—General Education Provision Act

## Title 2

- ▶ Part 200—Administrative Rules, Cost Principles and Audit Rules
- ▶ Part 3474—USDE Exceptions and Adopts Part 200 into EDGAR
- ▶ Part 3485—Nonprocurement Debarment and Suspension



# 2 CFR Part 3474.1

Except for 2 CFR 200.102 (a) and 2 CFR 200.207 (a), this part gives regulatory effect to the OMB guidance and supplements the guidance as needed.



# 34 CFR Part 75 Direct Grant Programs

- ▶ LEA receives the grant directly from USDE
- ▶ USDE is responsible for oversight of the grant
- ▶ Typically these are competitive grants (Race to the Top)



# 34 CFR Part 76 State-Administered Programs

- ▶ TEA is responsible for flowing grant funds to subrecipients and for ensuring the appropriate use of funds through oversight and monitoring activities
- ▶ TEA is required by statute and regulations to have subrecipients submit assurances and approvable applications before funds may flow to the subrecipients



# New EDGAR

## 2 CFR Part 200 of EDGAR

- ▶ **Subpart A**—Acronyms and Definitions
- ▶ **Subpart B**—General Provisions
- ▶ **Subpart C**—Pre-Award Requirements
- ▶ **Subpart D**—Post-Award Requirements
- ▶ **Subpart E**—Cost Principles
- ▶ **Subpart F**—Audit Requirements
- ▶ Appendices I-XI



# Underlying Rules, Concepts and Processes

- ▶ Federal statute is passed by Congress and creates a federal education program or rule
- ▶ Different types of statutes
  - Programmatic (NCLB, IDEA)
  - Administrative (Cross-cutting)
  - Appropriation (Specific amount of money for a program)



# Underlying Rules (continued)

## ▶ Regulations

- Drafted and adopted by the federal agency responsible for implementing the statute
- Have the force and effect of law
- Go through formal rulemaking process
- Different regulations:
  - Programmatic (NCLB, IDEA)
  - Administrative (EDGAR)



# Nonregulatory Guidance and Policy Letters

- ▶ USDE's interpretation of statutes and regulations
- ▶ Not same legal authority as statute or regulations
- ▶ No formal rulemaking
- ▶ Changes may be implemented more quickly



# Key Impact

“All administrative requirements, program manuals, handbooks, and other nonregulatory materials that are inconsistent with the requirements of this part must be superseded upon implementation of this part.” (200.105)



# The Major Changes in Federal Grants Management

1. Focus on Outcomes
2. Performance Metrics
3. Risk Assessments
4. Financial Management Policies
5. Equipment Use
6. Micro Purchases
7. Corrective Action
8. Family Friendly Policies
9. False Claims Certifications
10. Audit Thresholds



# Uniform Guidance Effective Date

- ▶ **Effective December 26, 2014**
- ▶ Applies to all *new* federal awards to TEA on or after this date
- ▶ Any carryover funds will follow *current* rules, *not* the rules from original grant award
- ▶ Read your NOGA

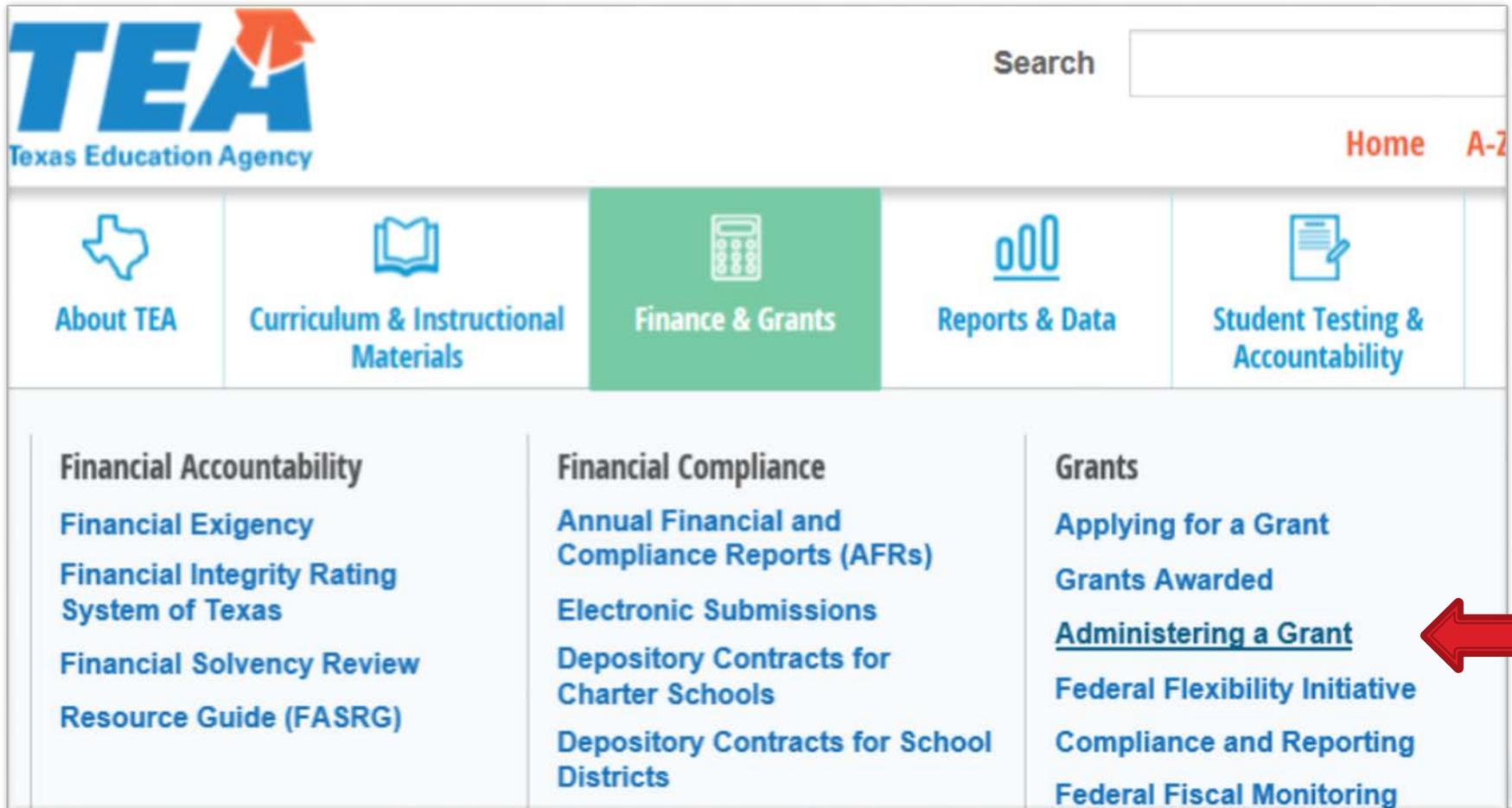


# EDGAR Training

- ▶ Statewide Training March 2015 (Austin)
- ▶ ESC Cluster Site Training Sessions:
  - March 27, 2015 – ESC 4 (Houston)
  - April 14, 2015 – ESC 17 (Lubbock)
  - April 16, 2015 – ESC 20 (San Antonio)
  - April 21, 2015 – ESC 10 (Richardson)
  - April 22, 2015 – ESC 7 (Kilgore)
- ▶ ACET Conference (Austin) – April 7-9



# The Uniform Guidance Web Page



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<b>Financial Accountability</b> <ul style="list-style-type: none"><li>Financial Exigency</li><li>Financial Integrity Rating System of Texas</li><li>Financial Solvency Review</li><li>Resource Guide (FASRG)</li></ul>	<b>Financial Compliance</b> <ul style="list-style-type: none"><li>Annual Financial and Compliance Reports (AFRs)</li><li>Electronic Submissions</li><li>Depository Contracts for Charter Schools</li><li>Depository Contracts for School Districts</li></ul>	<b>Grants</b> <ul style="list-style-type: none"><li>Applying for a Grant</li><li>Grants Awarded</li><li><b><u>Administering a Grant</u></b></li><li>Federal Flexibility Initiative</li><li>Compliance and Reporting</li><li>Federal Fiscal Monitoring</li></ul>
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# Other Relevant Sections of EDGAR

Title 34

Title 2

Part 76

Part 3474



# Title 34

- ▶ Part 75—Direct Grant Programs
- ▶ Part 76—State-Administered Programs
- ▶ Part 77—Definitions
- ▶ Part 81—General Education Provisions Act (GEPA)



# Part 76 – State-Administered Programs

- ▶ Allowable Costs (76.530)
  - Use of funds for religion and real property and construction prohibited
- ▶ Indirect Cost Rates (76.560)
  - Information on restricted indirect cost rates and how to calculate the rate
- ▶ General Administrative Responsibilities (76.700)
  - State and subgrantee compliance with all federal requirements
  - Fiscal control and procedures for proper disbursement of federal funds



# Part 76 – State-Administered Programs (continued)

- ▶ Obligations (76.707–76.710)
- ▶ Records (76.730)
- ▶ Procedures to Ensure Compliance  
(76.770–76.783)



# When Obligations Are Made

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of Binding Written Commitment
Personal Services by Employee	When Services Are Performed
Personal Services by Contractor	Date of Binding Written Commitment
Travel	When Travel is Taken
Approved Pre-Agreement Cost	On the first day of the grant or subgrant performance period



# Title 2

- ▶ Part 200—Cost/Administrative/Audit Rules
- ▶ Part 3474—USDE Exceptions
- ▶ Part 3485—Nonprocurement Debarment and Suspension



# New EDGAR

## 2 CFR Part 200 of EDGAR

- ▶ **Subpart A**—Acronyms and Definitions
- ▶ **Subpart B**—General Provisions
- ▶ **Subpart C**—Pre-Award Requirements
- ▶ **Subpart D**—Post-Award Requirements
- ▶ **Subpart E**—Cost Principles
- ▶ **Subpart F**—Audit Requirements
- ▶ Appendices I-XI



# Subpart A—Acronyms and Definitions

Cooperative Audit Resolution

Cost Objectives

Equipment

Supplies



# 200.25 – Cooperative Audit Resolution

- ▶ The use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust and developing an understanding between the Federal agency and non-Federal entity



# 200.28 – Cost Objectives **NEW**

- ▶ Program function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc.



# 200.33 – Equipment

- ▶ Equipment: tangible, nonexpendible, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- ▶ Grantee may also use its own definition of equipment as long as the definition would at least include all equipment defined above.



# 200.61 – Internal Controls

- ▶ 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.



# 200.94 – Supplies

- ▶ All tangible personal property other than equipment
  - **NEW** Computing devices are supplies if less than \$5,000
  - **NEW** Computing devices 200.20
    - Machines used to acquire, store, analyze, process, public data and other information electronically
    - Includes accessories for printing, transmitting and receiving or storing electronic information



# Subpart B—General Provisions

Conflict of Interest  
Mandatory Disclosures



# 200.112 – Conflict of Interest

- ▶ The Federal awarding agency (USDE) must establish conflict of interest policies for Federal awards
- ▶ All non-federal entities must establish conflict of interest policies and disclose in writing any potential conflict of interest to the federal awarding agency in accordance with applicable Federal awarding agency policy **NEW**



# 200.113 – Mandatory Disclosures

Non-federal entities must disclose in writing, in a timely manner:

- ▶ All violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award
- ▶ Failure to make disclosures can result in remedies for noncompliance (200.338)



# **Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards**

Requirements of Pass-through Entities



# Requirements of Pass-through Entities

- ▶ 200.205 – Federal Awarding Agency Review of Risk Posed by Applicants
- ▶ 200.207 – Specific Conditions
- ▶ 200.331 – Requirements for Pass-through Entities
- ▶ 200.338 – Remedies for Noncompliance



# 200.205 – Federal Awarding Agency Review of Risk Posed by Applicants

- ▶ **NEW** Must have in place a framework for evaluating risks posed by applicants, which may include reviewing:
  - Financial Stability
  - Quality of Management System
  - History of Performance
  - Audit Reports
  - Applicant's ability to effectively implement program



# 200.207(a) – Specific Conditions

- ▶ Federal agency or pass-through agency may impose additional Federal award conditions:
  - Requiring reimbursement
  - Withholding authority to proceed until evidence of acceptable performance
  - Additional detailed reporting
  - Additional project monitoring
  - Require grantee to obtain technical or management assistance
  - Establish additional prior approvals



# 200.207(b-c) – Specific Conditions

## Right to Notice:

- Nature of additional requirements
- Reason why imposed
- Nature of the action needed to remove the requirements
- Time for completing actions
- Method for requesting reconsideration
- ▶ Specific conditions must be removed once corrected.



# 200.331 – Requirements for Pass-through Entities

- ▶ **NEW** All pass-through entities must:
  - Ensure subawards are clearly identified with specific data
  - Evaluate subrecipient's risk of noncompliance
    - Prior experience with same or similar subawards
    - Results of previous audits
    - Whether new personnel or new or substantially changed systems
    - Extent and results of Federal monitoring



# 200.331 – Requirements for Pass-through Entities (continued)

- ▶ **NEW** All pass-through entities must:
  - Consider imposing specific conditions
  - Monitor as necessary to ensure subaward is used for authorized purposes, which must include:
    - Reviewing financial and programmatic reports
    - Ensure timely and appropriate action to correct all deficiencies, and
    - Issue management decision for audit findings as required under 200.521



# 200.331 – Requirements for Pass-through Entities (continued)

- ▶ **NEW** All pass-through entities must:
  - Depending on assessment of risk, monitoring tools may be useful to ensure proper accountability and compliance with program requirements and achievement of performance goals:
    - Training and technical assistance on program-related matters
    - On-site or desk reviews
    - Arranging for “agreed-upon procedures” engagements (200.425)



# 200.331 – Requirements for Pass-through Entities (continued)

- ▶ **NEW** All pass-through entities must:
  - Verify subrecipients have audits as required in Subpart F
  - Consider whether results require adjustments to the pass-through entity's own records
  - Consider taking enforcement actions (200.338)



# 200.338 – Remedies for Noncompliance

- ▶ **NEW** If noncompliance cannot be remedied with Specific Conditions, the entity may take one or more of the following actions:
  - Temporarily withhold cash payment pending correction
  - Disallow all or part of the cost
  - Wholly or partly suspend or terminate the Federal award (200.339)
  - Initiate suspension or debarment (2 CFR Part 180)
  - Withhold further Federal awards for the program
  - Take other remedies that may be legally available



# **Subpart D—Post-Federal Award Requirements**

Financial Management Rules  
Procurement  
Property Management



# Financial Management Controls

- ▶ 200.302(b) – Financial Management Rules
  - **NEW** Identification of Awards
  - Financial Reporting
  - Accounting Records
  - Internal Control
  - Budget Control
  - **NEW** Written Cash Management Procedures
  - **NEW** Written Allowability Procedures



# Identification of Awards **NEW**

- ▶ All federal “awards” received and expended
  - The name of the federal “program”
  - Identification # of award
  - CFDA Title and Number
  - Federal Award I.D. #
  - Fiscal Year of Award
  - Federal Agency
  - Pass-Through (If State Administered)



# Financial Reporting

- ▶ Accurate, current, complete disclosure of financial results of each award in accordance with 200.327 and 200.328
- ▶ **NEW** 200.327 – Federal awarding agency can only collect OMB approved data elements, no less than annually, no more than quarterly
- ▶ **NEW** 200.328 – Non federal entity must submit performance reports at intervals required by federal agency or pass through



# Financial Reporting (continued)

- ▶ Annual performance reports due 90 days after reporting period
- ▶ Quarterly performance reports due 30 days after reporting period



# Financial Reporting (continued)

## **NEW** Performance Metrics

- ▶ Compare actual accomplishments to objectives (quantify to extent possible)
- ▶ Reasons goals were not met if appropriate
- ▶ Additional pertinent information
- ▶ Significant developments
  - Problems, delays, adverse conditions
  - Favorable developments



# Accounting Records

Combined 80.20(b)(2) and 80.20(b)(6):

- ▶ Source Documentation Must Be Kept On:
  - Federal Awards
  - Authorizations
  - Obligations
  - Unobligated balances
  - Assets
  - Expenditures
  - Income
  - **NEW** Interest (*Eliminated liabilities*)



# Internal Controls

Essentially same as previous 80.20(b)(3):

- ▶ Effective control over and accountability for:
  - All funds
  - Property
  - Other assets
- ▶ Must adequately safeguard all assets
- ▶ Use assets solely for authorized purpose



# 200.303 – Internal Controls

- ▶ Internal controls “should” be in compliance with:
  - Comptroller General’s “Standards for Internal Control Integrated Framework” and
  - “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)



# 200.303 – Internal Controls

- ▶ Internal Controls must ensure compliance with federal statutes, regulations, terms of the award.
- ▶ Entities must:
  - Evaluate and monitor compliance
  - Take prompt action when instances of noncompliance are identified
  - Safeguard protected personally identifiable information



# Budget Control

- ▶ Same as current rule 80.20(b)(4)
- ▶ Comparison of expenditures with budget amounts for each award



# 200.308 – Revision of Budget and Program Plans

- ▶ Recipients are required to report deviations from budget or project scope or objectives and request prior approval from the Federal awarding agency for budget and program plan revisions.



# 200.308 – Revision of Budget and Program Plans (continued)

- ▶ Specifically, must request prior approval if the following occurs:
  - Change in scope or the objective of the project or program (cannot be waived);
  - Change in a key person specified in the application or the Federal award;
  - The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator;



# 200.308 – Revision of Budget and Program Plans (continued)

- ▶ Specifically, must request prior approval if the following occurs:
  - The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval under the selected items of cost in Subpart E;
  - The transfer of funds budgeted for “participant support costs” to other categories of expense;
  - “Participant support costs” essentially means training costs, including food and travel.



# 200.308 – Revision of Budget and Program Plans (continued)

- ▶ Specifically, must request prior approval if the following occurs:
  - The subawarding, transferring, or contracting out of any work under a Federal award, unless described in the application and funded in the approved Federal award
  - Doesn't include acquisition of supplies, material, equipment, or general support services



# 200.308 – Revision of Budget and Program Plans (continued)

- ▶ Specifically, must request prior approval if the following occurs:
  - Changes in the approved cost-sharing or matching provided by the non-Federal entity; and
  - The need arises for additional Federal funds to complete the project.



# 200.308(d) - Waivers

Waivers can also authorize recipients to:

- Incur project costs 90 days before the award
  - All of these costs are incurred at the risk of the recipient
  - If the award isn't granted, will not be reimbursed
- Extend the period of performance by up to 12 months without prior approval unless:
  - The terms and conditions of the Federal award prohibit the extension
  - The extension requires additional Federal funds or
  - The extension involves any change in the approved objectives or scope of the project



# 200.309 – Period of Performance

- ▶ A non-federal entity may charge to the Federal award only allowable costs incurred:
  - During the period of performance; and
  - Before the Federal awarding agency or pass-through entity made the Federal award, if the costs were authorized.
- ▶ Period of performance length is dependent on type of grant.
  - State-Administered Grants – “Tydings” Period
  - Direct Grants – “Expanded Authorities” Doctrine



# Written Cash Management Procedures

- ▶ ***NEW*** Written Procedures to implement the requirements of 200.305



# 200.305 – Payment

- ▶ For states, payments are governed by Treasury –State CMIA agreements 31 CFR Part 205
  - No Change
- ▶ For all other non federal entities, payments must minimize time elapsing between draw from G-5 and disbursement (not obligation)



# 200.305 – Payment (continued)

- ▶ Written procedures must describe whether non-federal entity uses:
  - Advance Payments (preferred)
  - Reimbursement
  - Working Capital Advance



# 200.305 – Payment (continued)

- ▶ **NEW** Advances must be maintained in insured accounts
- ▶ **NEW** Pass through cannot require separate depository accounts
- ▶ **NEW** Accounts must be interest bearing unless:
  - Aggregate federal awards under \$120,000
  - Account not expected to earn more than \$500 per year
  - Bank requires minimum balance so high, that account not feasible
  - A foreign government or banking system prohibits interest bearing accounts.



# 200.305 – Payment (continued)

- ▶ **NEW** Interest amounts up to \$500 may be retained by non federal entity for administrative purposes
  - Previously \$100 for State and local governments
  - Previously \$250 for IHEs and Non-profits.
- ▶ **NEW** Interest earned must be remitted annually to HHS Payment Management System.



# Written Allowability Procedures

- ▶ **NEW** Written procedures for determining allowability of costs in accordance with Subpart E—Cost Principles
  - Procedures can not simply restate the Uniform Guidance Subpart E
  - Should explain the process used throughout the grant development and budget process
    - Training tool and guide for employees



# Procurement

- ▶ 200.330 – Contract vs. Grant
- ▶ 200.318 – General Procurement Standards
- ▶ 200.319 – Competition
- ▶ 200.320 – Methods of Procurement
- ▶ 200.323 – Contract Cost and Price
- ▶ Appendix II(H) – Suspension and Debarment Rules for Contracts



# 200.307 – Program Income

- ▶ Non-Federal entities are encouraged to earn income to defray program costs where appropriate.
  - Costs of generating program income may only be deducted if:
    - Authorized by federal regulations or the Federal award;
    - Costs are incidental and not charged to the Federal award.



# 200.307 – Program Income (continued)

- ▶ Property from the sale of real property or equipment is not program income – apply post award property rules
- ▶ Program Income Must Be Deducted from Total Allowable Costs (except for IHEs and Research Non-profits)
  - With prior approval may add to Federal award



# Procurement

- ▶ 200.330 – Contract vs. Grant
- ▶ 200.317 – Procurement by States
- ▶ 200.318 – General Procurement Standards
- ▶ 200.319 – Competition
- ▶ 200.320 – Methods of Procurement to be Followed
- ▶ 200.323 – Contract Cost and Price



# 200.330 – Contract vs. Grant

- ▶ No change from the current requirement.
- ▶ Entities must clearly determine what is a subgrant and what is a contract.



# 200.317 – Procurement by States

- ▶ Still provides flexibility for States
- ▶ All other nonfederal entities follow policies and procedures under Section 200.318-200.326



# 200.318 – General Procurement Standards

- ▶ All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations



# 200.318 – Internal Controls

- ▶ Must maintain written standard of conduct, including conflict of interest policy.
- ▶ A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:
  - Employee, officer or agent
  - Any member of that person's immediate family
  - That person's partner
  - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award



# 200.319 – Competition

- ▶ All procurement transactions must be conducted with full and open competition.
  - Must have protest procedures to handle disputes
- ▶ To eliminate unfair advantage, contractors that develop or draft specifications, requirements, statement of work, and invitations for bids or RFPs must be excluded from competing for such procurements.



# 200.319 – Competition (continued)

## Situations that restrict competition:

- Unreasonable requirements on firms to qualify to do business
- Requiring unnecessary experience or excessive bonding
- Noncompetitive pricing practices
- Noncompetitive awards to consultants on retainer
- Organizational conflicts of interest (see 200.318(c)(2))
- Specifying a brand name instead of allowing “an equal”
- Any arbitrary action in the procurement process



# 200.319 – Competition (continued)

- ▶ Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
  - Does not preempt state licensing laws
  - Exception: architectural and engineering services (if provides appropriate number of qualified firms)



# 200.320 – Methods of Procurement

- ▶ **NEW** Micro-purchase
- ▶ Small purchase procedures
- ▶ Competitive sealed bids
- ▶ Competitive proposals
- ▶ Noncompetitive proposals



# 200.320(a) – Micro-Purchases

- ▶ **NEW** Acquisition of supplies and services under \$3,000 or less.
  - \$2,000 for construction subject to the Davis-Bacon Act
- ▶ May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- ▶ To the extent practicable must distribute micro-purchases equitably among qualified suppliers.



# 200.320(b) – Small Purchase Procedures

- ▶ Good or service that costs \$150,000 or less
  - **NEW** Simplified Acquisition Threshold was raised under 200.88
  - Organization may set lower threshold
- ▶ Must obtain price or rate quotes from an adequate number of qualified sources
- ▶ “Relatively simply and informal”



# 200.320(b) – Small Purchase Procedures

- ▶ Good or service that costs \$150,000 or less
  - **NEW** Simplified Acquisition Threshold was raised under 200.88
  - Organization may set lower threshold
- ▶ Must obtain price or rate quotes from an adequate number of qualified sources
- ▶ “Relatively simply and informal”

**FOLLOW STATE RULES**



# 200.320(c) – Sealed Bids

- ▶ Over \$150,000
  - Organization may set lower threshold
- ▶ Bids are publically solicited
- ▶ Appropriate when:
  - A complete, adequate and realistic specification or description of good or service is available;
  - Two or more responsible bidders are willing and able to compete effectively for the business;
  - Selection of vendor can be made principally based on price and it's a firm fixed price contract.



# 200.320(c) – Sealed Bids (continued)

- ▶ Sealed bids must:
  - Provide sufficient time to submit bids;
  - Include all specifications so bidder can properly respond; and
  - Be publicly opened at time and place announced in invitation for bids
- ▶ Any and all bids may be rejected if there is a sound documented reason.
- ▶ Award is made to the lowest responsive and responsible bidder.



# 200.320(d) – Competitive Proposals

- ▶ Over \$150,000
  - Organization may set lower threshold
- ▶ Award contract to responsible vendor whose proposal is most advantageous to the program, considering price and other factors.
- ▶ Generally used when sealed bid is not appropriate.



# 200.320(d) – Competitive Proposals (continued)

- ▶ Request for proposal (RFP) must be publicized and identify all evaluation factors and their relative importance identified.
- ▶ Proposals must be solicited from an adequate number of sources.
- ▶ Must have method for evaluating proposals and selecting the vendor.
- ▶ Contracts must be awarded to the responsible vendor whose proposal is most advantageous to the program, considering price and other factors.



# 200.320(f) – Noncompetitive Proposals

- ▶ Appropriate only when:
  - The item is only available from a single source;
  - There is a public emergency that will not permit delay;
- ▶ **NEW** The Federal awarding agency or pass-through expressly authorizes noncompetitive proposals in response to a written request from non-Federal entity; or
- ▶ After soliciting a number of sources, competition is determined inadequate.



# 200.323 – Contract Cost and Price

- ▶ **NEW** Must perform a cost or price analysis in connection with every procurement action over \$150,000, including contract modifications
- ▶ Independent estimate before receiving bids or proposals.
  - Cost analysis generally means evaluating the separate cost elements that make up the total price (including profit)
  - Price analysis generally means evaluating the total price



# Appendix II(H) – Suspension and Debarment Rules for Contracts

- ▶ Cannot contract with vendor who has been suspended or debarred
  - Excluded Parties List System in the System for Award Management (SAM)
- ▶ 2 CFR Part 180 (OMB Debarment and Suspension Rules) and 2 CFR 3485 (USDE Rules)



# 180.300 – Suspension and Debarment

- ▶ For contracts over \$25,000 you must verify that the person with whom you intend to do business is not excluded or disqualified
- ▶ This **MUST** be done by either:
  - Checking SAM; or
  - Collecting a certification from that person; or
  - Adding a clause or condition to the covered transaction with that person.



# Contact Information

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