



Ten Years in, OMB Makes Significant Changes to the Uniform Guidance: Learn from the Experts

June 27, 2024



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VENABLE LLP

Introductions: Diz Locaria



Diz Locaria

- Partner at Venable in Government Contracts Group
- Assists government contractors and grant recipients in all aspects of doing business with the federal government
- Extensive knowledge of government contract and grant regulations
- J.D., with honors, University of Maryland School of Law, 2003
- B.A., *magna cum laude*, San Francisco State University, 1999
- Holds bar admissions in DC and Maryland

Introductions: Dan Durst



Dan Durst, MBA

- Co-Founder of Award Advisors
- Executive Director at GMI
- Experienced Management Consultant
 - Compliance
 - Cost Allocation
- Former Auditor (now in the business of clean audits only)
- Based in Washington metro area
- Pisces

Introductions: Marc Bucalo



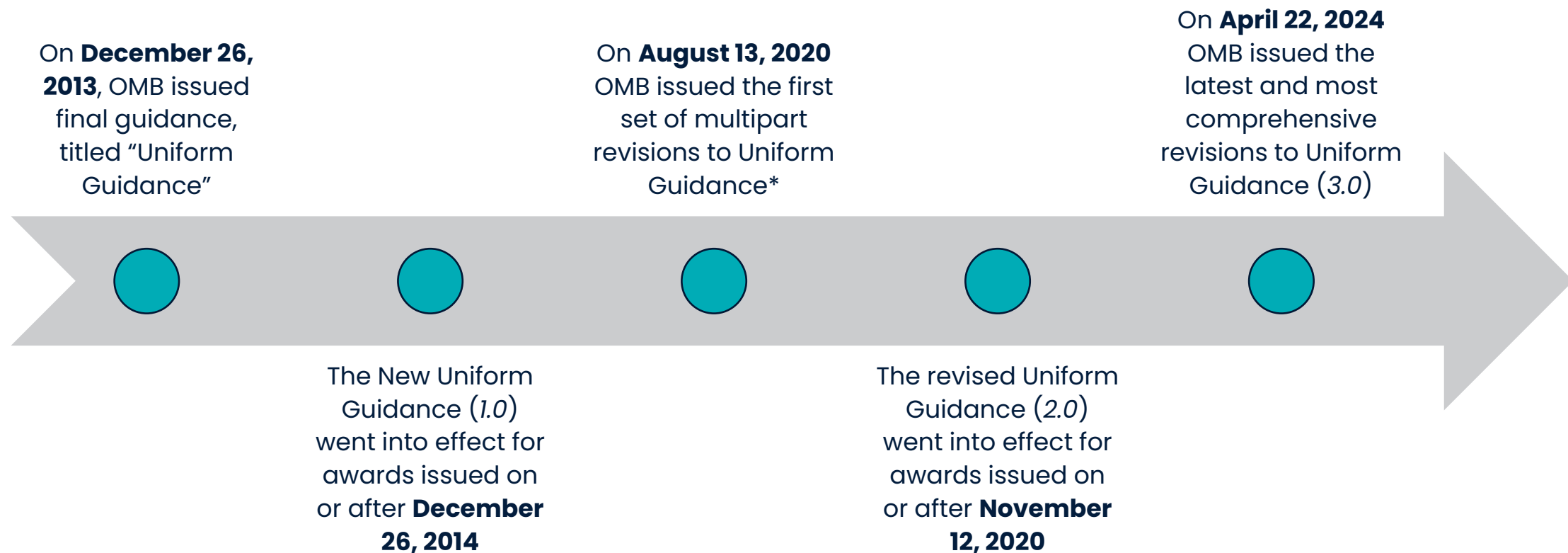
Marc Bucalo

- Co-Founder of Award Advisors
- President and CEO at g2 Consultant, Inc.
- Has over twenty years of experience working with recipients of federal grants and contracts
- Provides financial management, accounting, audit, and compliance solutions to meet client's needs
- Certified Public Accountant
- Based in Greater Boston area

Agenda

- How Did We Get Here? (A quick history lesson)
- Effective Date
- Overview of Revisions
- The Good News
- The Bad News
- Q&A

How Did We Get Here?



*Two revisions were effective immediately on August 13, 2020 (200.216 & 200.340).

Uniform Guidance 3.0 Effective Date

The effective date for the final guidance is October 1, 2024, however...

- Federal agencies may elect to apply the final guidance to Federal awards issued prior to October 1, 2024, but they are not required to do so
- For agencies applying the final guidance before October 1, 2024, the effective date must be no earlier than June 21, 2024
- Expectation is most will apply the “awards issued on or after” approach

Overview of Revisions

- OMB's goal with these revisions is to improve stewardship of Federal funds, promote equitable access to programs and services, reduce administrative burden for agencies, applicants, and recipients, and facilitate streamlined and effective oversight and implementation of Federal programs.
- The revisions:
 - eliminate several prior approval requirements
 - increase multiple thresholds that trigger additional requirements and
 - clarify requirements for agencies and recipients

The Good News

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Positive Revisions for Recipients

- Subpart A – Definitions revised for “Equipment” and “Modified Total Direct Cost”
- Subpart D – Fixed amount awards ceiling increase
- Subpart D – Removal of Prohibition on Geographic Preference
- Subpart E – De Minimis Indirect Rate increase
- Subpart E – Prior approval requirements removed for certain costs, including entertainment; memberships, subscriptions, professional activity costs; and participant support costs
- Subpart E – Removal of DS-2 requirement for IHEs
- Subpart F – Single Audit threshold increase
- Others...

2 CFR 200.1 Equipment

Current

- Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost **which** equals or exceeds the lesser of the capitalization level established by the **non-Federal entity** for financial statement purposes, or **\$5,000**.



Revised

- Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost **that** equals or exceeds the lesser of the capitalization level established by the **recipient or subrecipient** for financial statement purposes, or **\$10,000**.

2 CFR 200.1 ~~Supplies~~ Supply

Current

- **Supplies** means all tangible personal property other than those described in the definition **of equipment in this section**. A computing device is a supply if the acquisition cost is **less than** the lesser of the capitalization level established by the **non-Federal entity** for financial statement purposes or **\$5,000**, regardless of the length of its useful life.



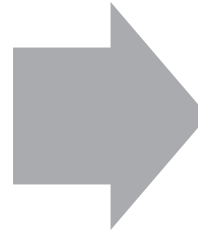
Revised

- **Supply** means all tangible personal property other than that described in the **equipment** definition. A computing device is a supply if the acquisition cost is **below** the lesser of the capitalization level established by the **recipient or subrecipient** for financial statement purposes or **\$10,000**, regardless of the length of its useful life.

2 CFR 200.1 Modified Total Direct Cost

Current

- Modified Total Direct Cost (MTDC) means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first **\$25,000** of each subaward (regardless of the period of performance of the subawards under the award).



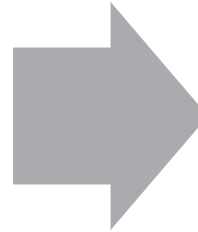
Revised

- Modified Total Direct Cost (MTDC) means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first **\$50,000** of each subaward (regardless of the period of performance of the subawards under the award).

2 CFR 200.414(f) De minimis rate

Current

- In addition to the procedures outlined in the appendices in paragraph (e) of this section, any non-Federal entity that does not have a current negotiated (including provisional) rate, except for those non-Federal entities described in appendix VII to this part, paragraph D.1.b, may elect to charge a de minimis rate of **10%** of modified total direct costs (MTDC) which may be used indefinitely.



Revised

- Recipients and subrecipients that do not have a current Federal negotiated indirect cost rate (including provisional rate) may elect to charge a de minimis rate of **up to 15 percent** of modified total direct costs (MTDC).

Impact of MTDC + De minimis revision

| Current | | |
|------------------------|----|---------|
| <hr/> | | |
| Subaward Value | \$ | 100,000 |
| MTDC | \$ | 25,000 |
| | | |
| De minimis rate | | 10% |
| | | |
| Indirect Cost Recovery | \$ | 2,500 |
| <hr/> | | |

| Revised | | |
|--------------------------|----|---------|
| <hr/> | | |
| Subaward Value | \$ | 100,000 |
| MTDC | \$ | 50,000 |
| | | |
| De minimis rate | | 15% |
| | | |
| Indirect Cost Recovery | \$ | 7,500 |
| <hr/> | | |
| Additional Cost Recovery | \$ | 5,000 |
| <hr/> | | |

2 CFR 200.333 Fixed amount subawards

Current

- With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the **Simplified Acquisition Threshold**, provided that the subawards meet the requirements for fixed amount awards in § 200.201.



Revised

- With prior written approval from the Federal agency, the recipient may provide subawards based on fixed amounts up to **\$500,000**. Fixed amount subawards must meet the requirements of §200.201.

2 CFR 200.501 Audit requirements

Current

- a) Audit required. A non-Federal entity that expends **\$750,000** or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- b) Single audit. A non-Federal entity that expends **\$750,000** or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with § 200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.



Revised

- a) Audit required. A non-Federal entity that expends **\$1,000,000** or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- b) Single audit. A non-Federal entity that expends **\$1,000,000** or more in Federal awards during the non-Federal entity's fiscal year must have a single audit conducted in accordance with § 200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) or (d) of this section.

Honorable Mention

- 200.307 Program Income (no obligation after PoP)
- 200.318 Strategic sourcing, Shared services agreements in procurement (Satisfies competition)
- 200.403 (h) Administrative closeout costs (allowable after PoP but before final financial report)
- 200.414 Indirect Rate Publishing Removed

The Bad News

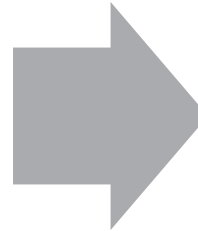
Additional Risks for Recipients

- 200.113 Mandatory Disclosures
- 200.217 Whistleblower Protections (Explicitly Stated)
- 200.303 Internal Controls (“Cyber Security” Mentioned)
- 200.306 Cost Share
- 200.313 Equipment – Records
- 200.318 Conflicts of Interest (“Board Member” named)
- 200.344 Closeout – Final Indirect Rates

2 CFR 200.113 Mandatory disclosures

Current

- The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity **all violations** of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.



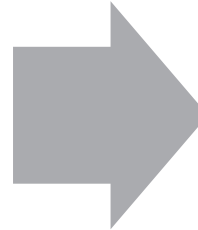
Revised

- An applicant, recipient, or subrecipient of a Federal award must promptly disclose **whenever, in connection with the Federal award (including any activities or subawards thereunder), it has credible evidence** of the commission of a violation of Federal criminal law involving fraud, **conflict of interest**, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729–3733).

2 CFR 200.306(a) Cost sharing

Current

- Under Federal research proposals, voluntary committed cost sharing is not expected. **It cannot be used as a factor** during the merit review of applications or proposals, **but may be considered** if it is both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity. Criteria for considering voluntary committed cost sharing and any other program policy factors that may be used to determine who may receive a Federal award must be explicitly described in the notice of funding opportunity.



Revised

- Voluntary committed cost sharing is not expected under Federal research grants. The Federal agency **may not use** voluntary committed cost sharing as a factor during the merit review of applications or proposals for Federal research grants **unless** authorized by Federal statutes or agency regulations and specified in the notice of funding opportunity. **Federal agencies are also discouraged from using voluntary committed cost sharing as a factor during the merit review of applications for other Federal financial assistance programs.** If voluntary committed cost sharing is used for this purpose for other programs, the notice of funding opportunity must specify how an applicant's proposed cost sharing will be considered.

2 CFR 200.313 Equipment

Current

- Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.



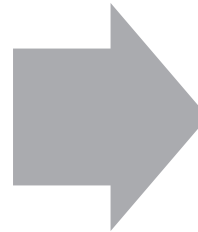
Revised

- Property records must include a description of the property, a serial number or another identification number, the source of funding for the property (including the FAIN), the title holder, the acquisition date, the cost of the property, the percentage of the Federal agency contribution towards the original purchase, the location, use and condition of the property, and any disposition data including the date of disposal and sale price of the property. **The recipient and subrecipient are responsible for maintaining and updating property records when there is a change in the status of the property.**

2 CFR 200.344 Closeout

Current

- The recipient must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. A subrecipient must submit to the pass-through entity, no later than 90 calendar days (or an earlier date as agreed upon by the pass-through entity and subrecipient) after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested and justified by the non-Federal entity, as applicable.



Revised

- A recipient must submit all reports (financial, performance, and other reports required by the Federal award) no later than 120 calendar days after the conclusion of the period of performance. A subrecipient must submit all reports (financial, performance, and other reports required by a subaward) to the pass-through entity no later than 90 calendar days after the conclusion of the period of performance of the subaward (or an earlier date as agreed upon by the pass-through entity and subrecipient). When justified, the Federal agency or pass-through entity may approve extensions for the recipient or subrecipient. **When the recipient does not have a final indirect cost rate covering the period of performance, a final financial report must still be submitted to fulfill the requirements of this section. The recipient must submit a revised final financial report when all applicable indirect cost rates have been finalized.**

Questions?

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