



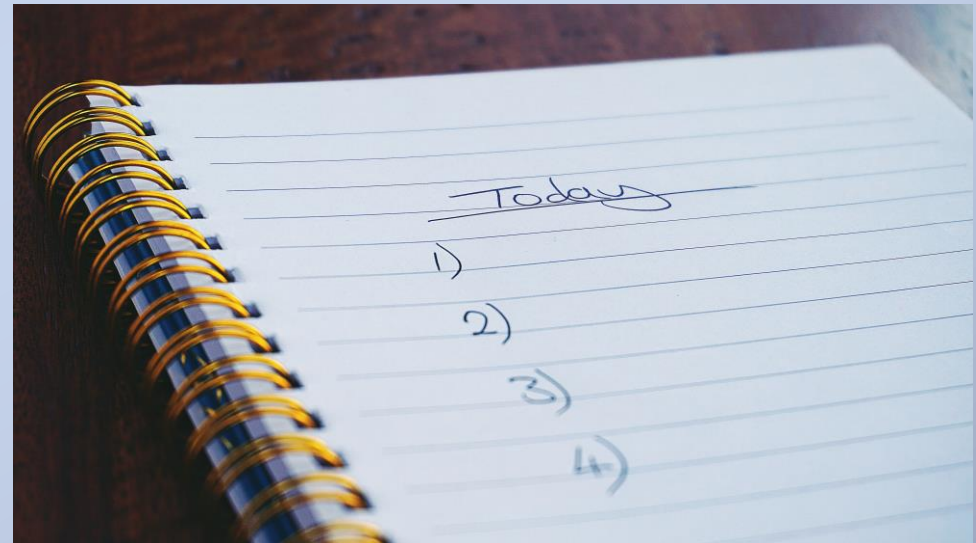
EDGAR and UGG Updates LASAFAP 2024

Steven Spillan, Esq. &
Madelaine Cleghorn, Esq.
sspillan@bruman.com;
mcleghorn@bruman.com

www.bruman.com

Agenda

- Proposed EDGAR & UGG Changes
- Financial Management
- Allowability
- Procurement
- Property Standards
- Audit Requirements



EDGAR and the UGG

EDGAR:

Direct Grant Programs – 34 CFR Part 75

State-Administered Programs – 34 CFR Part 76

Definitions – 34 CFR Part 77

Enforcement Regulations – 34 CFR Part 81

UGG:

Subpart A – Acronyms and Definitions

Subpart B – General Provisions

Subpart C – Pre-Federal Award Requirements

Subpart D – Post Federal Award Requirements

Subpart E – Cost Principles

Subpart F – Audit Requirements

What rules
apply?

Education Department General Administrative Regulations (EDGAR)

- 34 CFR Parts 74-99

Uniform Guidance (UGG)

- 2 CFR Part 200

Program Statutes and Regulations

- ESEA, ESSER, GEER, IDEA, WIOA, Perkins, AEFLA, etc.

EDGAR Proposed Changes

NPRM released: January 11, 2024

45 day comment period

<https://www.govinfo.gov/content/pkg/FR-2024-01-11/pdf/2023-27682.pdf>

Proposed 76.50 – Basic Requirements for Subgrants

- Where not prohibited by law, regulation or terms and conditions of the grant award, States have subgranting authority under State-administered formula grant programs and can authorize a subgrantee to make subgrants
 - If subgranting, must comply with pass-through requirements in 2 CFR 200.332, including subrecipient monitoring
- If subgranting is prohibited, grantees may still contract for goods and services

Proposed 76.401 – Appeal process for denied applicants

- Clarifies the hearing and appeal process under 76.401, including clarifying that aggrieved applicants must allege a specific federal or state statute or regulation has been violated.
 - Subsequent appeals to the Secretary must include a federal citation
 - Secretary may dismiss an appeal without a federal citation after asking the appellant to “show cause” why the appeal should not be dismissed.
- Appeals only for SEAs and related to denial of state-administered formula grant applicants
 - Other appeals of SEA final actions are in 76.783

UGG Proposed Changes

Proposed Changes to the UGG



Terminology/General Changes

- Current rule uses the term “non-Federal entity”
 - Proposed rule uses “**recipient**” and “**subrecipient**”
- 200.331: Subrecipient and Contractor Determinations – the Federal **Agency does not have a direct legal relationship with subrecipients or contractors of any tier**
- 200.1 – New definition of improper payment
- 200.404 – Notice of funding opportunities

Financial Management

Summary of Proposed Financial Management Changes

- Emphasis on documented internal controls
- Clarifications on rules applicable to construction vs. non-construction
- More flexibility on maintaining cash advances
- Additional program income requirements
- Clarifications on budget revision timelines and prior approval



Internal Controls – 200.303

MUST:

- Establish, **document**, and maintain internal controls
 - Comply with requirements (including U.S. Constitution)
 - Evaluate and monitor compliance
 - Take prompt action to correct noncompliance
 - Take **cybersecurity and other** measures **as appropriate** to safeguard **information including** personally identifiable information (PII)
- * Compliance Supplement, Internal Controls: “Control activities are the policies and procedures that help ensure the management’s directives are carried out.”

Required Written Procedures

- Participant support cost classification, 2 CFR 200.456
- Record conversion quality control, 2 CFR 200.336
- Opportunities to object, hearings and appeals, 2 CFR 200.342

Revision of Budget/Program Plans – 200.308

- Must report deviations from budget or project scope or objective and request prior approvals from Federal awarding agencies **or pass through entities** for budget and program plan revisions
- **The Federal awarding agency or pass-through entity must review the request for budget or program plan revision and notify the recipient or subrecipient whether the revisions have been approved within 30 days of receipt of the request.**
- **The Federal agency or pass-through entity must inform the recipient or subrecipient in writing when a decision can be expected if more than 30 days is required for a review.**

Revision of Budget/Program Plans – 200.308 (con't.)

- If project includes specific costs that typically require prior approval, the Federal agency may waive prior approval of these costs when the costs requiring prior approval are included in the recipient's or subrecipient's application, and also included in the Federal award.
- Prior approval means the written approval by an authorized official of a Federal agency or pass-through entity of certain costs or programmatic decisions. 200.1.

Timely Spending

Summary of Proposed Timely Spending Changes

- Revisions to definition of period of performance and financial obligations
- New allowable costs for closeout
- Some liquidation timeline flexibility



Closeout & Liquidation – 200.344

- Federal agency or pass-through **must** close out the award when it determines that all administrative actions and required work of the Federal award have been completed.
- SEA must liquidate within 120 days of obligation date
 - Complete scope of work
 - Finish accounting
 - Finalize draw-downs
- LEA has 90 days to liquidate (**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 recipient or subrecipient**

200.472 – Termination and standard closeout costs

- Administrative costs associated with the closeout activities of a Federal award are allowable.
- May charge the Federal award during the closeout for necessary administrative costs (ex. salaries of personnel preparing final reports, publication and printing costs, and the costs associated with the disposition of equipment and property).
- These costs may be incurred until the due date of the final report(s). If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the Federal agency.



When do costs obligate? 34 CFR 76.707

Type of Cost	Date of Obligation
Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property
Personal services by an employee	When the services are performed
Personal services by a contractor	On the date on which the State or subgrantee makes a binding written commitment to obtain the services
Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work
Travel	When the travel is taken

Allowability and Cost Principles

Summary of Proposed Allowability Changes

- Adds administrative closeout costs
- Adds prizes as a specific item of cost
- Allows for dependent care to be provided under conference costs
- Emphasizes need for written travel policies
- Must document participant support costs in policies and procedures
- Clarifications to prohibition telecommunications and video surveillance costs
- Changes to indirect costs and increased de minimus rate
- Removed some prior approval requirements



Selected Items of Cost Examples

Alcohol - 200.423

- Not allowable

Entertainment **and Prizes** - 200.438

(a) Not allowable **they have a specific and direct programmatic purpose and are included in a Federal award.**

- Field Trips & Holiday Parties are common examples

(b) **Costs of prizes or challenges are allowable if they have specific and direct programmatic purpose and included in federal award.**



Participant Support Costs – 200.456

- Participant support costs are allowable (see § 200.1). The classification of items as participant support costs must be documented in the recipient's or subrecipient's written policies and procedures and treated consistently across all Federal awards.
- Prior approval requirement removed

Procurement

Summary of Proposed Procurement Changes

- Emphasis on having written procurement procedures
- Treats tribes more like states
- Adds whistleblower protections
- Revisions to competition rules
- Additional mandatory reporting requirements
- Expands conflicts of interest rules
- Clarifies federal agency or PTE procurement review



Required Disclosures – 200.112, 200.113

- Conflicts of interest (200.112): Recipients and subrecipients must disclose in writing any potential conflict of interest to the federal awarding agency or pass-through in accordance with federal awarding agency's conflicts policies
- Mandatory disclosures (200.113): Applicant, recipients, and subrecipients must **promptly** disclose **whenever they have credible evidence of** a violation of federal criminal law potentially affecting the federal award (ex. fraud, embezzlement, bribery, gratuity violations)
 - Must be made in writing to the Federal agency, pass-through entity (if applicable), **and the agency's Office of Inspector General.**

Competition – 200.319

- All procurements transactions under **the** Federal award must be conducted in a manner **that provides** full and open competition consistent with the standards of this section and § 200.320.
- Competition is the rule; noncompetitive procurements are the exception and only allowable in limited circumstances outlined at 200.320(c).
- **Removes the prohibition on using geographic preferences.**

Property Standards

Summary of Proposed Changes to Property Standards

- Equipment threshold increased
- Clarifications to inventory procedures
- Increased responsibilities for PTEs
- New equipment retention flexibility
- Disposition thresholds increased
- New definition for unused supplies



Inventory Procedures – 200.313(d)

(1) Property records

- Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of Federal **contribution**, location, use and condition, and disposition date including sale price. **Recipient is responsible for maintaining and updating property records when there is a change in status of the property.**

(2) Physical inventory at least every two years (or more often, if required by State or your own policies)

(3) Control system to prevent property loss, damage, theft

- All incidents must be investigated **and reported to the Federal agency or pass-through entity**

(4) **Regular** maintenance procedures **in place**

(5) If authorized or required to sell property, proper sales procedures to ensure highest possible return

Disposition – Equipment (non-states)

200.313(e)

- When property is no longer needed in any current or previously Federally-funded supported activity, must request disposition instruction from the Federal agency **or pass-through entity**. Disposition will be made as follows, in accordance with Federal agency **or pass-through entity** disposition instructions:
 - Fair market value > **\$10,000 (per unit)** = pay Federal share back to federal agency **or pass-through entity**
 - Fair market value of < **\$10,000 (per unit)** = no money owed back to feds

Disposition – Equipment (non-states)

200.313 (con't.)

- May retain up to \$1,000 or 10%, whichever is less, to cover expenses associated with the selling and handling of the equipment.
- **200.313(f): *Equipment retention.*** When included in the terms and conditions of the Federal award, the Federal agency may permit the recipient to retain equipment with no further obligation to the Federal Government unless prohibited by Federal statute or regulation.

Disposition of Supplies – 200.314

- If there is a residual inventory of unused supplies **at the end of the period of performance** exceeding **\$10,000** in total aggregate value, and the supplies are not needed for any other Federal award, the State or LEA may retain or sell the supplies
 - **Unused supplies** means supplies that are in new condition, not having been used or opened before. The aggregate value of unused supplies consists of all supply types, not just like-item supplies

Disposition of Supplies – 200.314 (con't.)

- The federal agency or pass-through entity is entitled to compensation in an amount calculated by multiplying the percentage of the federal agency's or pass-through entity's contribution towards the cost of the original purchase(s) by the current market value or proceeds from the sale.
- If the supplies are sold, the Federal agency PTE may permit the recipient or subrecipient to retain \$500 or 10% (whichever is less) from the Federal share of the proceeds to cover expenses associated with the selling and handling of the supplies.

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Questions???



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