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**Sent:** Friday, March 27, 2015 7:42 AM  
**To:** cogr-l@mymaillists.usc.edu  
**Subject:** [cogr-l] Recap of COGR Meeting with OMB, re: Uniform Guidance

**Follow Up Flag:** Follow up  
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From: David Kennedy < DKennedy@COGR.edu >

COGR staff and leaders from the RCA and Costing Committees conferenced with OMB and COFAR leaders last Friday, March 20<sup>th</sup>, to discuss the status of the COGR Comment Letter submitted on February 13<sup>th</sup>. The 8 items summarized below are the items COGR is prioritizing during this phase of the Uniform Guidance implementation.

While there is not a perfect path to solutions and relief from administrative burden, COGR's perspective is that for each of the 8 items, there is a track for next steps. In addition, we encourage you to continue sharing with COGR situations where agency actions are inconsistent with the Uniform Guidance. We are logging all instances and are pursuing, accordingly.

Below the summary of each item is the recap of OMB's response during our conference call last Friday. OMB reviewed our original recap comments, provided edits, and confirmed it was appropriate to share this summary with the Membership. We will keep the Membership posted on the status of each item and other developments.

1) Conflict of Interest, § 200.112 – Confirm that this section is only about conflicts in procurement actions, not subrecipients.

The COFAR is reviewing the FAQ and plans to provide future clarifications regarding the provision. On the topic of EPA other agency policies specific to COI, the COFAR is aware of our concern and will keep us engaged in the conversation.

2) Requirements for pass-through entities, § 200.331 – Allow for an Audit/Management Decision “Safe Harbor” when the subrecipient is a peer-institution with a current Single Audit report, and not currently debarred or suspended.

The COFAR and OMB (Gil Tran and the agency National Single Audit Coordinators and the key management liaisons) are interested in advancing this discussion and we will engage throughout 2015.

3) Procurement Standards, § 200.317 - § 200.326 – Make policy calibrations to codify “research/scientific reasons” as a basis for a sole source procurement and update the micro-purchase threshold from \$3,000 to \$10,000. Also consider exempting research institutions from all of the procurement standards.

The COFAR is interested in receiving additional metrics and data to advance this discussion. COGR will work with the FDP and other entities to coordinate data and anecdotal information, which will be shared with the COFAR. We are optimistic that we will have productive conversations with our Federal partners on this topic.

4) Closeout, § 200.343 – Establish a uniform 120-day closeout model for all agencies, which applies to financial closeout, performance, and other reports.

The COFAR is interested in advancing this discussion and we will engage throughout 2015. We need to consider the perspective from Congress and respect and understand the mandate to ensure timely closeouts on Federal awards.

5) DS-2 Requirement, § 200.419 – Update this section to clarify and facilitate the DS-2 approval process.

The CASB is responsible for the new DS-2 form, which is embodied in the FAR rules. Realistically, it is 2+ months away. Most likely, the new form will be available for public comment, so we expect to have an opportunity to comment. However, this delay will require the COFAR to issue a policy update. We expect the following clarification: 1) Institutions submitting their F&A proposal should work with the Cognizant Agency to determine the best way to describe changes to the DS-2 (for example, this can be done in a Cover Letter of the F&A proposal submission or some other form). It may be an option to update the old DS-2 form, but this is not a requirement, 2) Institutions not submitting an F&A proposal and that do not have CAS-covered contract(s) requiring an updated DS-2 do not need to describe changes/submit until the new form is available. However, COGR suggests institutions should be drafting DS-2 responses prior to the release of a new DS-2 form, 3) OMB and/or the COFAR will provide a formal clarification of the above so that institutions are not at risk for non-compliance with the UG.

6) Compensation - fringe benefits, § 200.431 – Make a technical correction to confirm that tuition reimbursement for employees is allowable for undergraduate and graduate education, and further, it is allowable when the tuition reimbursement is applicable to other institutions as institutional policy permits.

The COFAR acknowledges our concern and needs to review this provision further. The COFAR did consider a possible technical correction to the guidance prior to the December 19<sup>th</sup> publication but decided against it. The COFAR is willing to revisit this provision at COGR's request. We expect to engage with the COFAR and share an update, soon.

7) Utility Cost Adjustment (UCA), Appendix III to Part 200 – Issue a policy clarification that makes implementation of the UCA more fair and equitable.

The COFAR appears to be agreeable to our suggestion that schools that have submitted (or are in the process of submitting) an F&A proposal to establish rates for FY16 and beyond, and are one of the 66 that received the UCA in the past, will receive the full 1.3. Schools that have submitted (or are in the process of submitting) an F&A proposal to establish rates for FY16 and beyond, but are not one of the 66, can propose a UCA using the methodology described in the UG. As to the applicability of the 2.0 research weighting factor, we will develop data in 2015 to analyze the validity of the factor.

8) Whereas it is clear that the effective date of the Uniform Guidance was December 26, 2014, OMB, the COFAR, and the Agencies have regularly defined caveats. For example, at the award level, most agencies have specified the UG is applicable to new awards and new funding increments only, so a cohort of awards remains covered by Circulars A-110/A-21. At the same time, at least one agency (i.e., DOD) has taken the stand that even the new funding increments will remain covered by A-110/A-21.

This creates the dilemma – inevitably, an institution will have some awards covered by the UG and others by A-110/A-21. In the case of 2 CFR 200.430, ***COGR is formulating a position that an “institution-defined effective date”, applicable to those selected policies and procedures that need to be updated, is the most practical and compliant manner to transition from A-21,J.10 to 2 CFR 200.430.*** Under this model, it may be appropriate to coordinate the “institution-defined effective date” with the new fiscal year or with some other benchmark date at your institution.

OMB and the COFAR have acknowledged the challenge that UG implementation will have in selected situations, such as in the case of implementing 2 CFR 200.430. COGR has raised the “institution-defined effective date” model to OMB as an effective approach for transitioning to full compliance with 2 CFR 200.430. This also would be helpful to the Single Audit community and would establish a reasonable audit standard that does not unfairly place institutions in a position of non-compliance. We are asking OMB to approve this approach through either an FAQ or an OMB Clarification memo and are reaching out to the Single Audit community to get feedback on this approach.

The COFAR is interested in this solution. It is clear that for the remainder of this fiscal year, at least, a significant majority of our Federal award dollars will be covered by A-21 rather than the UG. Consequently, the idea of maintaining our electronic systems and management processes to be compliant with A-21, for now, seems appropriate. To then target a transition to UG compliance using an “institution-defined effective date” would be a reasonable model to follow. We expect to engage with the COFAR and share an update, soon.