



Department of Economic Opportunity

Uniform Guidance Q&A

Effective Date/Implementation:

Q – How will DEO handle the fact that different grants have different start dates, and existing grants are still under the old Circulars?

A – DEO plans to implement the new Uniform Guidance consistently across all grant awards (old and new) on July 1, 2015. DEO plans to request grant modifications for all “old ETA funding” effective July 1, 2015, so that expenditures from that date forward will fall under the new guidance.

Q – How will incremental changes of old awards be handled prior to July 1, 2015?

A – Incremental changes of existing awards from DEO to the RWB (e.g., additional award and/or release) will not trigger implementation of the Uniform Guidance. Only changes to the original award from the federal awarding agency to DEO triggers implementation. DEO does not expect any changes to its existing awards between now and July 1, 2015.

Q – With whom in DEO should early implementation be discussed?

A – Grants Management.

Q – Can early implementation be done for just parts of the Uniform Guidance?

A – No. While some parts of the Uniform Guidance have a specific implementation date (e.g., beginning of the next fiscal year after December 26, 2014 for cost plans and audit requirements), the Uniform Guidance is effective for new federal awards received after

December 26, 2014. By early implementing, you are saying that you are applying the Uniform Guidance to federal awards made before December 26, 2014. USDOL (and other federal agencies) have made it clear that early implementation is encouraged so that all federal funds are subject to the same regulations. Piecemeal early implementation would only complicate the management of federal awards.

General:

Q – How quickly will general policies have to be revamped?

A – Policies should be updated by July 1, 2015.

Q – “Should” in the regulation means “best practice” and not required. “Must” means required. Is DEO prepared to follow this or make “Should” a “Must”?

A – The word “must” is used to indicate requirements. The word “should” is used to indicate best practices or recommended approaches that the COFAR wanted non-Federal entities to be aware of, but not necessarily required to comply with (FAQ 200.303-2).

Q – What additional restrictions, if any, will be imposed on the RWBs?

A – None. DEO will follow and apply the Uniform Guidance as issued.

Q – Will the One-Stop Management Technical Assistance Guide from USDOL be revised?

A – USDOL has indicated that the Technical Assistance Guide will be revised (no deadline or timeline given). §200.105 generally requires that for federal awards subject to the Uniform Guidance, all administrative requirements, program manuals, handbooks and other non-regulatory materials that are inconsistent with the requirements of the Uniform Guidance must be superseded upon implementation of the Uniform Guidance by the federal agency.

Q – What changes will be made to the Master Cooperative Agreement, and when will it be modified?

A – Grants Management and the program office will work together to identify all necessary changes to the Master Cooperative Agreement to ensure compliance with the Uniform Guidance. The Agreements will be updated by July 1, 2015.

Indirect Cost Plans:

Q – Will all RWBs be required to prepare indirect cost plans?

A – Yes, RWBs will be required to submit indirect cost plans by July 1, 2015.

****NEW**** Q – Will guidance be issued on the preparation and submission of indirect cost plans?

A – Yes. DEO had planned to issue guidance on the preparation and submission of indirect cost plans by April 1, 2015. However, because the Atlanta regional USDOL office is conducting Uniform Guidance and WIOA training from March 30 through April 1, 2015, we plan to place the guidance on consultation the following week to allow for the incorporation of any new information that we may learn during the training.

Q – Considering our multiple funding streams and cost allocation methodologies, how will indirect costs be treated?

A – The same federal funding limitations that apply now using an RWB’s cost allocation plan will apply using an RWB’s indirect cost plan prepared in accordance with the Uniform Guidance (Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations or Appendix VII to Part 200—State and Local Government and Indian Tribe Indirect Cost Proposals, as applicable). Only the mechanism for recovering indirect costs will change.

Q – Can RWBs use the flat 10% de minimis rate with their subrecipients?

A – Yes, as long as the subrecipient has never received a negotiated indirect cost rate.

Q – Does the Indirect Cost Plan mean that our current Cost Allocation Plans will be scrapped?

A – No. A cost allocation plan is still needed to describe the methods used in distributing joint or common costs to benefiting cost objectives. Basically, the “administrative and general” cost pool will no longer be allocated based on some statistic (such as total direct costs), but based on a rate developed in an indirect cost rate proposal.

Q – Is there an option to continue to use our current Cost Allocation Plan based on different methodologies for Facilities and administrative costs instead of negotiating an indirect cost rate?

A – No. Section 200.331(a)(4) requires that there be either: 1) an indirect rate negotiated with the federal government, 2) an indirect rate negotiated with DEO (the pass-through entity), or 3) an election by the subrecipient to use the de minimis rate.

Q – Are we on our own in negotiating an indirect cost rate with the Feds? Do we submit to and through DEO or do we submit directly to USDOL?

A – For an entity that only receives funds as a subrecipient, DEO (the pass-through entity) will be responsible for negotiating and/or monitoring the subrecipient's indirect costs.

Q – Is DEO prepared to walk us through how to calculate and how to submit and how to negotiate and indirect cost rate? Is there a time set for the first training?

A – Yes. Working on developing the procedure now.

Q – Is there enough time between now and July 1 to get an indirect cost rate approved?

A – Yes. DEO expects to immediately approve the rate submitted in the indirect cost rate proposal as a provisional rate. If questions arise during the review, a new provisional rate may be issued. (Any new provisional rate is applied retroactively to the beginning of the fiscal year.)

Q – Will the Indirect Cost Rate apply to only Federal Funds? What about Cost Allocation to grants that Regions receive from Non Federal Funding Sources?

A – An indirect cost rate proposal covers the entire organization, including both federal and non-federal funds. The approved indirect cost rate is designed as a mechanism to allow a program to pay its fair share of indirect costs. This rate would be appropriate to use for the non-federal funding sources as well. Of course, as always, the terms and conditions of the non-federal funding must be followed where charging for indirect costs.

Q – Will the Indirect Cost Rate have to be re-negotiated every year based on new and/or deleted funding sources?

A – Yes, although §200.414(g) allows for the possibility of extending a negotiated rate for a period of up to four years. Until there is a history of working with indirect cost rates, extension of the first year's rate is not a good idea.

Q – What about Funding Decisions that are now part of the cost allocation plan? If the Indirect Cost Rate is applied to all funding sources then obviously some funds will not be large enough to cover and come up short. Will we be allowed to make those funding decisions as we do now?

A – Funding decisions will still be made as they are now. Funding decisions are not dependent on the indirect cost recovery methodology. One thing to keep in mind is that indirect “follows” the direct cost. A funding decision would be made on the direct cost and the indirect cost would follow.

Q – Since we are your subrecipients, can the 10% de minimis indirect cost rate be applied if we have never received an indirect cost rate? What would the ramifications be of doing that?

A – Yes. Per §200.414(f), any non-federal entity that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. The major ramification is without knowing the true indirect cost rate, the de minimis rate may not be high enough to recover all the indirect costs, forcing the difference to be funded by non-federal sources.

Q — An RWB has an administrative cost pool and a programmatic cost pool. Does this mean just the administrative cost pool will use an indirect cost rate?

A — In light of the requirements in the Uniform Guidance, all the RWB's cost pools should be reviewed to ensure that all appropriate indirect costs are allocated or directly charged to a general and administrative cost pool (by whatever name used at the RWB). These indirect costs will be divided by some base (either modified total direct costs or a version of direct salaries and benefits) to determine the indirect cost rate.

Q — What if the 10% de minimis rate is above an RWB's actual rate?

A — The RWB does not have to account to DEO for the difference between indirect costs recovered through the de minimis rate and actual indirect costs, up or down.

Q — Is every RWB subrecipient required to negotiate an indirect rate with the RWB?

A — Yes, unless the RWB's subrecipient has a federally negotiated rate or elects the de minimis rate. An RWB that has subrecipients is subject to §200.331(4).

****NEW**** Q – How does the indirect cost rate apply to our sub-recipients? We have several who are for profit and one is the county school board.

A – See the preceding Q&A. RWBs that are pass-through entities have the same responsibilities for their subrecipients under §200.331(4) as the DEO pass-through entity has for its RWB subrecipients.

The U.S. Department of Education delegated indirect cost oversight of local education agencies (i.e., county school districts in Florida) to the state education agency (i.e., Florida Department of Education). It is permissible for an RWB to accept the indirect cost rate negotiated by the local school district with the Florida Department of Education.

A for-profit subrecipient falls under the Federal Acquisition Regulation (FAR; Title 48 of the Code of Federal Regulations) Subpart 32.7 – Contract Funding and Subpart 42.7 – Indirect Cost Rates. USDOL's *A Guide for Indirect Cost Rate Determination* has further guidance on the application of indirect costs for what that document terms commercial organizations.

****NEW**** Q – If a subrecipient doesn’t have an indirect cost rate, but has had one in the past, it can’t use the 10% de minimis. Does the RWB need to require the subrecipient to get an indirect cost rate?

A – See the preceding two Q&As. If a subrecipient does not have a federally negotiated indirect cost rate and is ineligible to elect the de minimis rate, then the RWB must negotiate a rate. But notice in the above example of a local school district, another pass-through entity may have negotiated a rate with the subrecipient entity. In that case, it is permissible for the RWB to accept that rate.

Q — After the fiscal year is closed, does an RWB “true up” the indirect cost rate to ensure that all costs are covered and it hasn’t received too much?

A — Yes. DEO anticipates approving provisional rates with final. Final rates are determined after year end, then applied to grants retroactively to the beginning of the fiscal year.

Q — What about grants that do not cover indirect costs?

A — A funding source may have limitations that does not allow it to cover all the indirect costs properly charged to it. Excess indirect costs may not be shifted to federal awards but must be paid from non-federal sources.

****NEW**** Q – Which costs are considered indirect?

A – Generally speaking, indirect costs are those necessary to run the organization but do not directly provide good/services or otherwise directly benefit a program. The Uniform Guidance also allows minor direct costs to be classified as indirect for reasons of practicality (i.e., a disproportionate amount of effort would be needed to allocate the costs to the benefiting programs).

DEO is attempting to make the transition to an indirect cost rate proposal as easy as possible. Accordingly, we are recommending that the operational definitions of direct and indirect costs align as closely as possible to the definitions of program and administrative costs found in the WIA regulations at Title 20 CFR 667.220.

The cost of administration is defined at §667.220(b) as the cost of providing general administrative functions and coordination of those functions (see §667.220(b)(1) for the list of

administrative functions), oversight and monitoring related to those administrative functions, costs of goods and services required for administrative functions, travel costs incurred in carrying out administrative activities or the overall management of the WIA system, and costs of information systems related to administrative functions. These administrative costs would be considered indirect costs.

****NEW**** Q – Management information system costs are an example of general and administrative expenses. What is the interpretation of “management information systems” costs? Is this just the accounting system or does this include all programmatic reporting systems?

A – See preceding Q&A. It is helpful to use the WIA regulations for administrative and program costs to determine what indirect and direct costs are. Specifically, §667.220(b)(5) states that the costs of information systems are charged to the program category if the system is for: tracking or monitoring of participant and performance information; employment statistics information; performance and program cost information on providers of training services, youth activities and appropriate education activities; local area performance information; and information relating to supportive services and unemployment insurance claims for program participants. These can be considered direct costs.

Conversely, §667.220(b)(1)(ix) states that information systems required for administrative functions (listed in (i) through (viii) of that section) are charged to costs of administration. These can be considered indirect costs.

****NEW**** Q – Are training costs (ITA-qualified) and support services (transportation, childcare) included in the definition of participant support costs, therefore excluded from the MTDC base?

A – No. DEO has determined that the employment and training programs funded by WIOA/WIA, TANF and SNAP are **not** participant support costs as contemplated by the Uniform Guidance. These costs should be included in a modified total direct cost base.

****NEW**** Q – How should DEO pass-thru funds (e.g., Wagner Peyser) be accounted for in the indirect cost rate calculation when salaries are paid directly by DEO?

A – Pass-through funds of jointly managed programs will be treated in a manner similar to other pass-through funds received from DEO. For instance, one-stop staff who provide guidance to

state merit staff, thus allocating time to the Wagner-Peyser and Veterans programs, will result in base costs against which to apply indirect costs (see Title 20 CFR §§652.215 and .216.). State merit staff statistics would continue to be included in statistics to allocate other costs such as facility lease, telephones, IT network, and the like for goods and services the merit staff uses. Many of these other costs would be included in a modified total direct cost base.

****NEW**** Q – The use of a modified total direct cost base in one RWB will result in the DEO-jointly managed programs to receive a higher portion of indirect costs. This RWB will no longer be able to maintain the 60/40 ratio that is required by the Vets programs. Will this cause an issue?

A – While DEO and the RWBs have made great progress preparing for the implementation of the Uniform Guidance, there are still a number of issues that have not yet been fully resolved. If at the end, the RWB or DEO feels that the indirect cost rate proposal would result in an inequitable distribution of indirect costs, we will work together to come up with an equitable base.

****NEW**** Q – Once you have the indirect cost rate what do you do with it (mechanically)?

A – First, apply the RWB’s cost allocation plan to the intermediate cost pools which will allocate costs to their final cost objectives, such as DEO pass-through awards or other funding sources. (Note: the general and administrative pool is a final cost objective and not allocated by the cost allocation plan.) Next, identify the direct base costs, either on the modified total direct costs basis or direct salaries and benefits basis. Finally, indirect costs are claimed by applying the approved indirect rate to the applicable direct cost base. Indirect costs based on the indirect cost rate are reported in the Local Administration cost category in OSMIS.

****NEW**** Q – If an RWB has other grants (non-USDOL) is the indirect cost rate applied to those as well?

A – Yes. The indirect cost rate is applied to all awards.

****NEW**** Q – Is private funding considered in an indirect cost rate proposal?

A – Yes. An indirect cost proposal must encompass all operations of an RWB. If the private funding costs are included in the indirect cost base (either direct salaries & benefits or modified total direct cost), then it must bear its proportional share of indirect costs.

****NEW**** Q – Would the indirect cost rate need to be applied to ALL expenditures regardless of the funding, even those from unrestricted funds?

A – See the preceding two Q&As. Since indirect costs applicable to non-federal funds cannot be shifted to federal funds, the indirect cost rate effectively applies to non-federal funds as well. If a cost paid by unrestricted funds falls into the indirect cost base, then indirect costs must be applied to the unrestricted funds (though may be paid by any non-federal funding source that would allow it).

****NEW**** Q – If an RWB uses incentives to pay incentives to staff or buy equipment, is the indirect cost rate applied to those expenses?

A – If the incentive payment is for a cost that is included in the indirect cost base, either direct salaries & benefits or modified total direct cost, then the indirect cost rate would be applied. In this example, incentive payments to administrative (i.e., indirect) staff and purchases of equipment would be excluded from either base. Incentive payments to program (i.e., direct) staff would be included in either base.

Property:

****NEW**** Q – If a capital asset has a net book value (and a market value) of less than \$5,000, can any proceeds be considered Unrestricted Funds? Must a car be used as a trade in? What if the vehicle isn't replaced?

A – §200.313(e)(1) does allow that items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the federal awarding agency. However, to qualify for disposition, the original or replacement equipment acquired under a federal award must no longer be needed for the original project or program or for other activities currently or previously supported by a federal awarding agency. If a car is still needed in the performance of a federal program, then fiscal prudence dictates that the old car be used as a trade in or sold with the proceeds put toward the replacement

vehicle. If the vehicle is not replaced (i.e., no longer needed for any federal program at the RWB) and has exceeded its estimated useful life, then proceeds may be retained as unrestricted funds and for the foreseeable future, no subsequent prior approval request for the purchase of a vehicle will be granted.

Procurement:

Q – Micro Purchases (under \$3,000) are not required to have bids or quotes. Will DEO impose any further requirements on these purchases?

A – No, DEO will follow and apply the Uniform Guidance as stated in §200.320(a) — Procurement by micro-purchases.

Q – Will DEO require prior approval for sole source?

A – No, but the procurement must meet one or more of the circumstances listed in §200.320(f) – Procurement by noncompetitive proposals.

Q – For procurements over the Simplified Acquisition Threshold (currently \$150,000), must an RWB perform cost or price analysis BEFORE receiving bids or proposals?

A – Yes, an RWB must comply with §200.323 – Contract cost and price, paragraph (a) for these procurements.

Q – The micro purchase and small purchase methods of procurement would be used frequently. What is the expected level of documentation for monitoring?

A – An RWB must maintain sufficient documentation to demonstrate compliance with §200.320(a) and (b).

Q – DEO implementation is 7-1-15 for Uniform Guidance. If an RWB wanted to update its purchasing policy prior to this date can we do this or do we need to wait until 7/1/15?

A – Purchasing policy is an example of an entity-wide system change that can be made immediately after the effective date of the Uniform Guidance, which is December 26, 2014 (see

FAQ 200.110-13). RWBs electing to follow the Uniform Guidance earlier than required should contact DEO to discuss prior to implementing.

****NEW**** Q – Do individual purchases from the same vendor for different items that are each less than \$3,000 but total more than \$3,000 qualify as micro purchases?

A – Possibly, but §200.320(a) requires that to the extent practicable, the RWB must distribute micro-purchases equitably among qualified suppliers. Having multiple micro purchases with the same vendor does not meet this provision.

Cost Principles:

Q – Supplies include computing devices costing less than \$5,000. Will DEO require tracking of any equipment less than \$5,000?

A – No. Though an RWB may want to “informally” track these devices to prevent loss, damage or theft of the property, there is no requirement to do so. To clarify, a computing device qualifies as a supply if the acquisition cost is less than the lesser of the capitalization level established by the RWB for financial statement purposes or \$5,000. For governmental RWBs, Florida Administrative Code Chapter 69I-73 applies, which requires all property with value or cost of \$1,000 or more and a projected useful life of one year or more to be recorded as property for inventory purposes (FAC 69I-73.002) and specifies the elements required to be recorded for each property item (FAC 69I-73.003(2)).

Q – Will DEO require prior approval for equipment purchases less than \$5,000 with federal funds?

A – Prior written approval is required for equipment purchases that equals or exceeds the lesser of the capitalization level established by the RWB for financial statement purposes or \$5,000.

Q – Leave payouts would be part of Indirect Costs and not assigned to the particular funding source that benefits from the individual’s time as recorded in Microix. Does this refer to severance pay as well as unused leave time for those who terminate?

A – A technical amendment published on December 19, 2014, removes the requirement that leave payouts and severance pay be treated as indirect costs.

Please note that costs of severance pay are allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-federal entity's part, or (d) circumstances of the particular employment (§200.431(i)(1)).

****NEW**** Q – Are payments of unused leave required to be billed as indirect (see §200.431(b)(3)(i))? What if the staff only worked with one funding source (e.g., WIA Adult)?

A – See the preceding question and answer. OMB published a technical amendment on December 29, 2014, removing the requirement that unused leave paid at retirement or termination be charged as indirect.

Q – Fund raising costs for the purposes of meeting federal program objectives are allowable with prior written approval. Can this be added to the annual prior approval?

A – No. Because §200.442 – Fund raising and investment management costs requires prior written approval from the federal awarding agency, DEO has limited approval authority for this type of request.

Q – Is the purchase of uniforms for administrative personnel allowable using federal funds?

A – In accordance with §200.403, costs must be, among other criteria, necessary and reasonable for the performance of the federal award and be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the RWB. RWBs would need to clearly document that the purchase is necessary and reasonable.

Q – Should proposal costs be treated as indirect costs?

A – Yes. §200.460 states that proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs. This represents a best practice to be followed unless an alternative can be justified.

Q –Can we eliminate the use of Personal Activity Reports? Can we eliminate the requirement from our subrecipients?

A – §200.430(i)(1) sets the standards for documentation of personnel expenses. These standards do not mandate a personal activity report (PAR), but a properly completed PAR does meet all the requirements. An RWB’s subrecipients must meet these same requirements.

§200.430(i)(6) encourages alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Approval of an alternative must come from the federal cognizant agency for indirect costs (i.e., USDOL), not DEO.

Q — If personnel activity reports (PARs) are used, can the RWB forgo the signature?

A — Perhaps. The Uniform Guidance §200.430(i)(1) requires that charges to federal awards for salaries and wages must be based on records that are supported by a system of internal control that provides reasonable assurance that the charges are accurate, allowable and properly allocated. The employee’s and supervisor’s signatures on the PAR are control procedures to help accomplish these objectives. However, if an RWB uses alternate control procedures that can result in the same thing, then physical signatures would not be required.

Q — If an RWB uses something other than personnel activity reports (PARs), does it need to get approval from DEO?

A — No. Uniform Guidance §200.430(i)(6) encourages alternative proposals for documentation of personnel expenses based on outcomes and milestones for program performance where these are clearly documented. However, approval for an alternative proposal must come from the federal cognizant agency for indirect cost, which is USDOL.

Q — If staff time is charged based on outcomes/performance then would it be acceptable to determine an individual’s allocation in advance since the anticipated goals are known in advance?

A — Perhaps, if the conditions in §200.430(i)(6) are met.

Record Retention and Access:

Q – What are the retention and storage requirements for electronic records?

A – The requirements are essentially no different than the requirements for paper records.

§200.335 — Methods for Collection, Transmission and Storage of Information makes clear that electronic, open, machine readable information is preferable to paper, as long as there are appropriate and reasonable internal controls in place to safeguard against any inappropriate alteration of records.

§200.333 — Retention Requirements for Records states that records, in whatever form, must be retained for at least three years from the date of submission of the final expenditure report, longer under certain circumstances.

Other Policy Issues:

Q – Will the State revisit travel costs as they are much stricter than OMB?

A – No. RWBs must follow Florida statutory provisions, even if the cost requirements/allowances are more restrictive than the Uniform Guidance.