

Final Rule (85 FR 49506) and Subsequent Corrections (86 FR 10439)

Texas Workforce Commission Summary of the Office
of Management and Budget's 8/13/2020 Revisions
and 2/22/2021 Corrections for 2 CFR Parts 25, 170,
183, and 200

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Slide Updates

- This TWC slide deck was created 12/15/2020 to reflect OMB's 8/13/2020 revisions to 2 CFR Parts 25, 170, 183, and 200. The slide deck was updated on 2/22/2021 to reflect additional corrections that OMB issued on that date, and to make a URL change to slide 4.
- The 2/22/2021 update to this slide deck affects slides 4, 17, 19, 29, 31, 40, 59, 83, 100, 110, 113, 120, and 124.
- The 5/3/2021 update to this slide deck replaced “performance.gov” with “cfo.gov” in slides 4, 45, and 122 to reflect the new location for related federal guidance.

Section 1

Background

Resources

- **Update:** Texas Workforce Commission Financial and Grant Information web page (<https://twc.texas.gov/agency/texas-workforce-commission-financial-grant-information>)
 - Includes a variety of resources including the current link to federal guidance available on the cfo.gov website.
- The cfo.gov website includes:
 - Proposed Rule, 1/22/2020
 - Final Rule, 8/13/2020
 - Redlined version of changes
 - FAQ for 2 CFR 200.216
 - Additional content may be added later
 - A Listserv option is available

Purpose

2 CFR 200.109 Review Date, requires the Office of Management and Budget (OMB) to perform a quinquennial review of 2 CFR Part 200.

OMB's Goals

- Support implementation of the President's Management Agenda Results-Oriented Accountability for Grants Cross Agency Priority Goal (Grants CAP Goal) and other Administration priorities.
 - Note: The Grants CAP Goal is working to shift the culture of Federal grant making from a heavy focus on compliance to a balanced approach that includes a focus on the degree to which grant programs achieve their goals and intended results.
- Meet statutory requirements and align with other authoritative source requirements.
- Clarify existing requirements.

Parts Affected by the Final Rule

- 2 CFR Part 25
- 2 CFR Part 170
- 2 CFR Part 183
- 2 CFR Part 200

2 CFR Part 25 “Universal Identifier and System for Award Management” (SAM)


- No changes for TWC subrecipients.
- Adds a new SAM data element for recipients (i.e., TWC).
- Continues to require recipients and first-tier subrecipients to have a unique entity identifier (currently a Dun & Bradstreet (DUNS) number).
- Continues to prohibit recipients from making a first-tier subaward until the subrecipient obtains and provides the recipient with the subrecipient’s DUNS number.
- As before, does not require lower-tier subrecipients to obtain a DUNS number as a condition of receiving a subaward. Additionally, the SAM registration requirement in these regulations does not apply to subrecipients.

2 CFR Part 170 “Reporting Subaward and Executive Compensation Information”

- Relates to Federal Funding Accountability and Transparency Act (FFATA).
- No change anticipated for TWC subrecipients at this time.
- As before, applies to recipient reporting on first-tier subawards; does not require first- or lower-tier subrecipients to collect and report the data for subawards that those subrecipients make.
- Increases recipient reporting threshold from \$25,000 to \$30,000.
- TWC will need to make a related update to WD Letter 29-12, “Federal Funding Accountability and Transparency Act of 2006—Update.”

2 CFR Part 183 “Never Contract with the Enemy”

- No anticipated impact on TWC grant awards except possibly to pass-through an award provision if one is included in the terms and conditions of future Federal awards.
- Requires certain actions for Federal awards and subawards that are performed outside the United States and its outlying areas, when those awards or subawards exceed \$50,000, and are “in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.” (2 CFR 183.10)



2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”

- Makes numerous revisions to 2 CFR Part 200.
- This slide packet provides a summary.

Section 2

Global Changes to 2 CFR Parts 25, 170, 183 and 200

Global Changes

- Formatting, numbering, and editorial changes and clarifications throughout.
- Changes to improve consistent use of terminology among 2 CFR Parts 25, 170, 183, and 200, where possible.

Section 3

Part 200, Subpart A: Definitions



Section Numbers

Definitions in 2 CFR Part 200 no longer have individual section numbers. Reference 200.1 for all definitions for 2 CFR Part 200.

Terminology Changes

- Replaces “Catalog of Federal Domestic Assistance (CFDA)” with “Assistance Listings.”
- Replaces “obligation” with “financial obligation.”

Removed Definition

- Removed “internal control compliance requirements for Federal awards” (formerly 200.62)
- **Update:** The 8/13/2020 issuance omitted “federal awarding agency” from the definitions. The OMB’s 2/22/2021 corrections restored the definition without change.

Revised Definitions (1 of 2)

- Revises “capital asset” to update “capital lease” terminology.
- Revises “contract” for clarity.
- Revises “federal interest” to correct the formula for its calculation.
- Amends “fixed amount award” to permit Federal awarding agencies to use for both grant agreements and cooperative agreements. Formerly limited to grant agreements.
- Reorganizes and adds more explanation to “improper payment.” (Refer to slides 20-22.)

Revised Definitions (2 of 2)

- Expands “oversight agency for audit” to address cognizant audit agency determination when direct Federal awards comprise less than 25% of total Federal expenditures.
 - **Update:** The OMB’s 2/22/2021 corrections revised the second sentence of the definition by replacing “cognizant agency for audit” with “oversight agency for audit.”
- Amends “questioned costs” to clarify that questioned costs are not improper payments until reviewed and confirmed to be improper.
- Amends “recipient” and “subrecipient” to replace “non-Federal entity” with “usually but not limited to non-Federal entities” to allow that in some cases a Federal entity could be a recipient or a subrecipient.
- Amends “termination” to add that ‘a lack of funds is not a termination.’

New Definitions

- budget period
- renewal award
- discretionary award
- non-discretionary award
- highest level owner
- subsidiary
- notice of funding opportunity
- telecommunications costs

Definition of “Improper Payment” (1 of 3)

Reorganizes, but continues to include the following:

- Any payment that should not have been made, or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements.
 - Reorganizes existing content to clarify that “incorrect amounts” are overpayments or underpayments (adding the text: “that are made to eligible recipients, including denials of payment or service”), any payment that does not account for credit for applicable discounts, payments that are for an incorrect amounts, and duplicate payments.”
 - Adds: “Applicable discounts are only those discounts where it is both advantageous and within the agency’s control to claim them.”
- Any payment to an ineligible party, any payment for an ineligible good or service, any payment for a good or service not received (except for such payments when authorized by law).
- Any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.
 - Adds: “When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.”

Definition of “Improper Payment” (2 of 3)

Adds:

- “Interest or other fees may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.”
- “A ‘questioned cost’ (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.”
- “The term ‘payment’ in this definition means any disbursement or transfer of Federal funds (including a commitment for future payments, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.” Also adds: “The term ‘payment’ includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation [FAR] and Federal awards subject to this part that are expended by recipients.”

Definition of “Improper Payment” (3 of 3)

Adds (continued):

- “See definition of improper payments in OMB Circular A-123 appendix C, part I.A.(1) ‘What is an improper payment?’” Also adds, “Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 appendix C.”

“Period of Performance” and Related Changes (1 of 3)

- Revises “period of performance” definition and adds “budget period” and “renewal award” definitions, reflecting the relationship among the three terms.
- Replaces “period of performance” with “budget period” in other provisions of Part 200, where appropriate.
- Requires that Federal awards and subawards identify both the period of performance and the budget period. (200.110 and 200.332)
- Changes 200.309 from “Period of Performance” to “Modifications to Period of Performance,” replacing content.
- Adds a budget period factor to 200.403 Factors Affecting Allowability of Costs.

“Period of Performance” and Related Changes (2 of 3)

“Period of performance” definition:

- Formerly: The time during which the Non-Federal Entity (NFE) may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or Pass-Through Entity (PTE) must include start and end dates of the period of performance in the Federal award per 200.210 and 200.331 (now 200.211 and 200.332).
- New: The total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the Period of Performance in the Federal award per 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period.

“Period of Performance” and Related Changes (3 of 3)

- Budget period (new term): The time interval from the start date of a funded portion of an award to the end date of the funded portion during which recipients are authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 200.308 Revisions of Budgets and Program Plans. [Also applies to subawards.]
- Renewal award (new term): An award made subsequent to an expiring Federal award for which the start date is contiguous with, or closely follows, the end of the expiring Federal award. A renewal award’s start date will begin a distinct period of performance.

“Telecommunication Costs” and Related Changes

The revisions:

- Define telecommunications cost (200.1)
 - The cost of using communication and telephony technologies such as mobile phones, land lines, and internet.
- Add a prohibition on certain telecommunication costs (200.216)*
- Add a cost item addressing the allowability of telecommunications costs (200.471)*

*The revisions for 200.216 and 200.471 are covered later in this slide packet.

Section 4

Part 200, Subpart B: General Provisions

200.101 Applicability

- Describes the use of “must,” “should,” and “may” in 2 CFR Part 200.
 - “Must” indicates a requirement.
 - “Should” or “may” “indicates a best practice or recommended approach rather than a requirement and permits discretion.”
- **Update**: The OMB’s 2/22/2021 corrections amended the introductory text in paragraphs (e) and (f) of 200.101 by adding § 200.216 to the referenced exceptions.

200.102 Exceptions (1 of 2)

- Revisions to this section primarily affect Federal awarding agencies and recipients.
- Emphasizes that Federal awarding agencies are encouraged to request exceptions to certain provisions of 2 CFR Part 200 in support of innovative program designs that apply a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance. (Federal awarding agency submits requests to the OMB.)
- Revisions support emphasis on results-oriented accountability for grants.

200.102 (2 of 2)

- **Update:** The OMB's 2/22/2021 corrections fixed a typo in the first sentence of 200.201(c) by replacing “may apply adjust requirements” with “may adjust requirements.”

200.105 Effect on Other Issuances

- Revisions to this section primarily affect Federal awarding agencies and recipients.
- Prohibits Federal awarding agencies from including references to nonauthoritative guidance in the terms and conditions of Federal awards. Clarifies that only requirements that have gone through the notice and public comment process may be imposed on recipients.

Section 5

**Part 200, Subpart C:
Pre-Federal Award
Requirements and
Contents of Federal
Awards**

200.201 Fixed Amount Awards

Changes one of the conditions that establishes when Federal awarding agencies and PTEs can use fixed amount awards from circumstances when the “project scope is specific” to when the “project scope has measurable goals and objectives.”

200.202 Program Planning and Design (new)

- Revisions to this section primarily affect Federal awarding agencies.
- Formalizes a requirement that is already expected of Federal awarding agencies to develop a strong program design by establishing program goals, objectives, and indicators, to the extent permitted by law, before applications are solicited, to set the stage for demonstrating program results.
- Revisions support emphasis on results-oriented accountability for grants.

200.203 Requirements to Provide Public Notice of Federal Financial Assistance Programs

- Revisions to this section primarily affect Federal awarding agencies.
- Formerly 200.202.
- Amends (b), adding, that the Federal awarding agency “must, to the extent practicable, create, update, and manage Assistance Listings entries based on the authorizing statute for the program and comply with additional guidance provided by GSA in consultation with OMB to ensure consistent, accurate information is available to prospective applicants.”

200.204 Notice of Funding Opportunities

- Revisions to this section primarily affect Federal awarding agencies.
- Formerly 200.203.
- Revised to reflect that both discretionary and cooperative agreements might be competed by Federal awarding agencies. (Formerly: “For competitive grants and cooperative agreements...” New: “For discretionary grants and cooperative agreements that are competed...”)
- Expands information that Federal awarding agencies must include in notices of funding opportunities, adding “applicable terms and conditions for resulting awards, including any exceptions from these standards terms.”
- Revisions support emphasis on results-oriented accountability for grants.

200.205 Federal Awarding Agency Review of Merit Proposals

- Revisions in this section primarily affect Federal awarding agencies.
- Formerly 200.204.
- Amends existing requirement that for discretionary awards (formerly “competitive grants or cooperative agreements”), unless prohibited by Federal statute, Federal agencies must design and execute a merit review process for applications, by adding that this be done “with the objective of selecting the recipients most likely to be successful in delivering results based on the program objectives outlined in §200.202.” Describes merit review as “an objective process of evaluating Federal award applications in accordance with written standards set forth by the Federal awarding agency.” Requires Federal agencies to periodically review their process.
- Revisions support emphasis on results-oriented accountability for grants, specifically, a fair and transparent process and that awards are designed to achieve program goals and objectives.

200.206 Federal Awarding Agency Review of Risk Posed by Applicants (1 of 2)

- Revisions in this section primarily affect Federal awarding agencies and Federal award applicants.
- Formerly 200.205.
- Permits Federal awarding agencies to adjust requirements pre- or post-award when a risk-evaluation indicates that it may be merited.
- Per the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, adds that before making a Federal award, a Federal agency must consider all information available in the Federal Awardee Performance and Integrity Information System (FAPIIS) relating to the applicant and any immediate highest level owner, predecessor, or subsidiary identified for that applicant in FAPIIS, if applicable.
- Revisions support emphasis on results-oriented accountability for grants.

200.206 (2 of 2)

- **Update:** The OMB's 2/22/2021 corrections revised the first sentence of 200.206(a)(1) to update a citation by replacing “Improper Payments Elimination and Recovery Improvement Act of 2012, 31 U.S.C. 3321 note” with “Payment Integrity Information Act of 2019, 31 U.S.C. 3301 note.”

200.208 Specific Conditions

- Revisions in this section primarily affect Federal awarding agencies.
- Formerly 200.207.
- Adds: “Federal awarding agencies are responsible for ensuring that specific Federal award conditions are consistent with the program design reflected in §200.202 and include clear performance expectations of recipients as required in §200.301.”
- Revisions support emphasis on results-oriented accountability for grants.

200.209 Certifications and Representations

- Formerly 200.208.
- Inserts “the U.S. Constitution” as an additional source that might prohibit a Federal awarding agency or PTE from requiring an NFE to submit a particular certification or representation.

200.211 Information Contained in a Federal Award

- Revisions in this section primarily affect Federal awarding agencies.
- Formerly 200.210.
- Reflects that performance information focused on results must be made available to recipients in the solicitation and in the award.
- This change further emphasizes existing requirements for requiring Federal awarding agencies to provide recipients with clear performance goals, indicators, targets, and baseline data.
- Revisions support emphasis on results-oriented accountability for grants.

200.215 Never Contract with the Enemy (new)

- Not anticipated to affect TWC awards except to pass-through an award provision if included in the terms and conditions of Federal awards.
- Requires compliance with new 2 CFR Part 183.
- Affects Federal awards and subawards that are performed outside the United States and its outlying areas, when those awards or subawards exceed \$50,000, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

200.216 Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment (new) (1 of 3)

- Effective 8/13/2020 for all Federal awards. (Expenditures on and after that date.)
- Related FAQ at [cfo.gov](https://www.cfo.gov). (Refer to the Dates & Resources slide in this slide packet.)
- See also “200.471 Telecommunications and Video Surveillance Costs” and the 200.1 definition of “Telecommunications Costs.”

200.216 (2 of 3)

- Prohibits recipients and subrecipients from obligating or expending “loan or grant funds” to procure or obtain; extend or renew a contract to procure or obtain; or enter a contract (or extend or renew a contract) to procure or obtain **equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.**
- “Covered telecommunications equipment” has meaning in Public Law 115–232, section 889—telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

200.216 (3 of 3)

Requires that “in implementing the prohibition, heads of [Federal] executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.”

Section 6

Part 200, Subpart D: Post Federal Award Requirements

200.300 Statutory and National Policy Requirements

- Paragraphs (a) and (b) continue to require:
 - Federal awarding agencies to “manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with” certain requirements (paragraph (a))
 - NFEs to comply with all requirements of the Federal award, including FFATA (paragraph (b))
- Amends (a) as follows:
 - Replaces “U.S. statutory requirements” with “U.S. Constitution” and “Federal Law.”
 - Amends the text, “including but not limited to those protecting...” by adding “free speech” and “religious liberty.”

200.301 Performance Measurements

- Revisions in this section address Federal awarding agencies.
- Makes multiple wording changes to emphasize that Federal awarding agencies are encouraged to measure recipient performance to improve program goals and objectives, share lessons learned, and spread the adoption of promising practices.
- Adds: “This provision is designed to operate in tandem with evidence-related statutes.”
- Ties to 200.202 Program Planning and Design, and 200.329 Monitoring and Reporting Program Performance.
- Revisions support emphasis on results-oriented accountability for grants.

200.303 Internal Controls

- Continues to list internal control requirements for NFEs.
- Amends (b)—which requires NFEs to comply with Federal statutes, regulations, and the terms and conditions of Federal awards—by adding the “**U.S. Constitution**” to the requirements with which NFEs must comply.

200.305 Payment

- Amends (b)(5) by removing the subheading, “Use of resources before requesting cash advance payments.” Doing so clarifies that NFEs must disburse program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments under the award, regardless of the payment method used to request the payment (advance, reimbursement, working capital advance).
- Reorganizes, expands, and clarifies content formerly contained in (b)(9), relating to instructions for recipient remittances to the Federal government (i.e., interest on Federal awards paid through the Payment Management System (PMS), interest on Federal awards not paid through PMS, excess cash and other remittances).

200.308 Revisions of Budgets and Program Plans

- Revisions in this section affect Federal awarding agencies and recipients.
- Relating to the approved budget for the Federal award from the Federal awarding agency to the recipient, amends (a), revising text relating the budget to performance.
 - Formerly: “It [the approved budget for the Federal award] must be related to performance for program evaluation purposes whenever appropriate.”
 - New: “The budget and program plans include considerations for performance and program evaluation purposes whenever required in accordance with the terms and conditions of the award.”

200.309 Modifications to Period of Performance (1 of 2)

- This section shifts from describing the requirement to allow only costs incurred during the period of performance, to describing modifications to the period of performance.
- Relates to the new “budget period” and “renewal award” definitions, their relationship to the “period of performance,” and the addition of budget period to 200.403 as a factor affecting allowability.

200.309 (2 of 2)

- Formerly: ‘Period of Performance. Except for certain publication and printing costs, and authorized pre-award costs, an NFE may charge only allowable costs incurred during the period of performance.’ (paraphrased)
- New: “Modifications to Period of Performance. If a Federal awarding agency or pass-through entity approves an extension, or if a recipient extends under 2 CFR 200.308(e)(2), the period of performance will be amended to end at the completion of the extension. If a termination occurs, the period of performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct period of performance will begin.”

200.317 Procurement by States

- Revisions to this section affect States.
- Expands standards that apply to States' procurements.
- Formerly, required a State to follow the same policies and procedures it uses for procurements from its funds, plus 200.322 Recovered Materials (now 200.323) and 200.326 Contract Provisions (now 200.327).
- Adds requirements to comply with the new 200.322 Domestic Preferences for Procurements, and the previously existing 200.321 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

200.318 General Procurement Standards (1 of 3)

- Revisions to this section affect NFEs other than States.
- Emphasizes requirement to have and use documented **procurement procedures** that conform to the procurement standards. (200.318(a))
- Adds a sentence relating to the existing standards for **intergovernmental agreements and inter-entity agreements**, indicating that competition requirements apply to strategic sourcing, shared services, and other similar procurement arrangements. (200.318(e))
- Refer to the next two slides for details.

200.318 (2 of 3)

- Procurement procedures:
 - Formerly: The NFE “must **use** its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, **provided that the procurements conform to applicable Federal law and the standards in this part.**”
 - New: The NFE “must **have and use** documented procurement procedures, consistent with State, local, and tribal laws and regulations **and** the standards of this section, **for the acquisition of property and services required under a Federal award or subaward.** The non-Federal entity’s documented procurement procedures must conform to the procurement standards **identified in §§200.317 through 200.327 of this subpart.**”

200.318 (3 of 3)

- Intergovernmental/Inter-entity agreements:
 - The OMB's 8/13/2020 revisions added: "Competition requirements will be met with applied to documented procurement actions using strategic sourcing shared services, and other similar procurement arrangements."
 - **Update:** The OMB's 2/22/2021 corrections removed the words "applied to" from the new text.
 - With the OMB's 2/22/2021 correction, the full text now reads: "(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. **Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.**"

200.319 Competition

- Revisions to this section affect NFEs other than States.
- Amends (a) by:
 - Qualifying the statement that “all procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section,” by inserting the text “**for the acquisition of property or services required under a Federal award**” after the word “transactions.”
 - Adding the text “and §200.320” to the end of the sentence.
- Adds: “(f) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).”

200.320 Methods of Procurement to be Followed (1 of 9)

- Revisions to this section affect NFEs other than States.
- Groups procurement types into three categories:
 - Informal (micro-purchase, small purchase)
 - Formal (sealed bids, proposals)
 - Noncompetitive (sole source)
- Revises and adds text that further emphasizes the 200.318(a) requirement to have and use documented procurement procedures that conform to the 2 CFR Part 200 procurement standards.
- Makes changes relating to procurement by micro-purchases, small purchases, proposals, and noncompetitive procurements.
- Refer to the next eight slides for details.

200.320 (2 of 9)

Procurement procedures:

- Formerly: 200.320 began, “The non-Federal entity must use the following methods of procurement.”
- New: 200.320 begins, “The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 300.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.”

200.320 (3 of 9)

Micro-purchases:

- Distribution. Replaces “**must** be distributed equitably among qualified suppliers to the **extent practicable**” with “**should** be distributed equitably among qualified suppliers, to the **maximum extent practicable.**”
- Awards. Amends the provision, “Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable,” by:
 - Inserting “price or rate” before “quotations.”
 - Appending the sentence with the text, “**based on research, experience, purchase history or other information and documents its files accordingly.**”
- Awards. Adds that purchase cards can be used for micro-purchases if procedures are documented and approved by the NFE.

200.320 (4 of 9)

Micro-purchases (continued):

- **Micro-purchase threshold.**

- The FAR formally updated the micro-purchase threshold to \$10,000. (In the interim before the FAR update, the OMB used an OMB Memorandum to apply the NDAA-established \$10,000 threshold to micro-purchases.)
- Revisions to 200.320 add that the NFE “is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures,” and that the micro-purchase threshold “must be authorized or not prohibited under State, local or tribal laws or regulations.”

- **Optional higher thresholds (new).** Refer to the next two slides.

- Adds option to increase micro-purchase threshold up to \$50,000.
- Adds option to increase micro-purchase threshold over \$50,000.

200.320 (5 of 9)

Micro-purchases (continued):

- **Option to increase threshold from \$10,000 up to \$50,000 (new).**
 - NFE may “self-certify a threshold up to \$50,000 on an annual basis.”
 - “Must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334.” [200.334 refers to record retention.]
 - “The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
 - (A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;
 - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or
 - (C) For public institutions, a higher threshold consistent with State law.”

200.320 (6 of 9)

Micro-purchases (continued):

- **Option to increase threshold over \$50,000 (new).**
 - Must be approved by the NFE's "cognizant agency for indirect costs."
 - The NFE must submit a request that meets the requirements included under the option to increase the micro-purchase threshold up to \$50,000. (Refer to the previous slide.)
 - If approved, the increase is valid until there is a change in status in which the justification was approved.

200.320 (7 of 9)

Small purchases:

- The FAR formally updated the Simplified Acquisition Threshold (SAT) to \$250,000.
- Revisions to 200.320 add, “The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures which must not exceed the threshold in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.”
- Emphasizes that “adequate number of qualified sources” is determined by the NFE.
 - Amends the formerly existing text that read, “If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources,” by adding, “**as determined appropriate by the non-Federal entity.**”

200.320 (8 of 9)

Proposals:

- Shortens heading from “Procurement by Competitive Proposals,” to “Proposals.”
- Removes text that stated, “The technique of competitive proposals is normally conducted with more than one source submitting an offer.”

200.320 (9 of 9)

Noncompetitive Procurement:

- Shortens heading from “Procurement by Noncompetitive Proposals,” to “Noncompetitive Procurement.”
- Adds: “There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply...”
- Adds micro-purchases as a fifth circumstance in which noncompetitive procurement can be used, describing it as, “The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section).”
- Clarifies the circumstance pertaining to public exigency/sole source by inserting the word “publicizing,” to read: “The public exigency or emergency for the requirement will not permit a delay resulting from **publicizing a** competitive solicitation.”

200.321 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

- No change for NFEs other than States.
- As noted in an earlier slide, the revisions amend 2 CFR 200.317, Procurement by States, adding “The State will comply with §§200.321...” This is a new requirement for States.
- The change to apply this section to States was not included in the 1/20/2020 Proposed Rule.
- There is no Preamble explanation for the change in the 8/13/2020 Final Rule.

200.322 Domestic Preference for Procurements (new) (1 of 2)

- Encourages recipients and subrecipients (including States) to maximize their use of goods produced in the United States by requiring certain domestic preferences for procurements.
- Similar to the Buy American Act provisions that apply under the Workforce Innovation and Opportunity Act.
- Applies to all procurements, including micro-purchases.
- 2 CFR 200.327 Contract Provisions and Item (L) of Appendix II to 2 CFR Part 200 require that contracts include a domestic preference provision.

200.322 (2 of 2)

The new provision reads:

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section: (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

200.328 Financial Reporting

- Revisions in this section address Federal awarding agencies.
- Formerly 200.327.
- Adds: “The Federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information.”
- Revisions support emphasis on results-oriented accountability for grants.

200.329 Monitoring and Reporting Program Performance (1 of 2)

- The revisions in (b) affect Federal awarding agencies and recipients, and those in (c) affect PTEs and their subrecipients.
- Formerly 200.328.
- Inserts a new (b). Refer to the next slide for the text.
- Relating to “non-construction performance reports” from recipients to Federal awarding agencies, and from subrecipients to PTEs, amends (c)(1), adding: “A subrecipient must submit to the pass-through entity, no later than 90 calendar days after the period of performance end date, all final performance reports as required by the terms and conditions of the Federal award. See also §200.344.”
 - TWC-issued grant awards ordinarily specify an earlier due date.
- Ties to 200.301 Performance Measurement.
- Revisions support emphasis on results-oriented accountability for grants.

200.329 Monitoring and Reporting Program Performance (2 of 2)

The text of the new (b) reads:

“Reporting program performance. The **Federal awarding agency** must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information. As appropriate and in accordance with above mentioned information collections, the **Federal awarding agency** must require the recipient to relate financial data and accomplishments to performance goals and objectives of the Federal award. Also, in accordance with above mentioned common information collections, and when required by the terms and conditions of the Federal award, **recipients** must provide cost information to demonstrate cost effective practices (e.g., through unit cost data). In some instances (e.g., discretionary research awards), this will be limited to the requirement to submit technical performance reports (to be evaluated in accordance with **Federal awarding agency** policy). Reporting requirements must be clearly articulated such that, where appropriate, performance during the execution of the Federal award has a standard against which non-Federal entity performance can be measured.”

200.332 Requirements for Pass-Through Entities (1 of 8)

- Formerly 200.331.
- Revisions to:
 - (a)(1) relating to award identification data elements
 - (a)(4) relating to PTE identification and negotiation of subrecipient indirect cost rates
 - (d)(2)-(d)(4) relating to PTE monitoring of subrecipients
- Refer to the next slides for details.

200.332 (2 of 8)

Award identification data elements:

- Inserts new (a)(1)(vi), adding “subaward budget period start and end date” as an additional data element that PTEs must include in subawards.
- Continues to also require (a)(1)(v), “subaward period of performance start and end date,” and other previously required data elements.

200.332 (3 of 8)

PTE identification and negotiation of subrecipient indirect cost rates:

- Continues to require subawards to identify “an approved indirect cost rate negotiated between the subrecipient and the Federal Government.”
- Replaces, ‘or if no such rate exists, either a rate negotiated between the PTE and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414,’ with prior guidance and clarification. Refer to the next slide.

200.332 (4 of 8)

PTE identification and negotiation of subrecipient indirect cost rates (continued):

- Incorporates the following prior guidance and clarifications.
- If no approved rate exists, the PTE must determine the appropriate rate in collaboration with the subrecipient which is either:
 - The negotiated indirect cost rate between the PTE and subrecipient, which can be based on a prior negotiated rate between a different PTE and the same subrecipient. (If basing on a previously negotiated rate, the PTE is not required to collection information justifying the rate but may elect to do so.)
 - The de minimis indirect cost rate.
- The PTE must not require use of a de minimis rate if the subrecipient has a Federally approved rate.
- Subrecipients can elect to use the cost allocation method to account for indirect costs in accordance with 200.405(d).

200.332 (5 of 8)

Monitoring of Subrecipients:

- Revises (d)(2)—“(d)...Pass-through entity monitoring of the subrecipient must include...(2) following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, **and other means**”—by replacing “and other means,” with “and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular award.”

200.332 (6 of 8)

Monitoring of Subrecipients (continued):

- Revises (d)(3) by inserting “applicable” and “only” to read as follows: “(d) ...Pass-through entity monitoring of the subrecipient must include...(3) Issuing a management decision for **applicable** audit findings pertaining **only** to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521.”
- This change is intended to clarify that PTEs are responsible for addressing only those subrecipient audit findings that are specifically related to their subaward (rather than having to address all findings including those that are broader and entity-wide).

200.332 (7 of 8)

Monitoring of Subrecipients (continued):

- Adds a new (d)(4) which reads:

“(d)...Pass-through entity monitoring of the subrecipient must include...(4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving cross-cutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient’s cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with §300.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award- specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.”

200.332 (8 of 8)

- **Update:** The OMB's 2/22/2021 corrections fixed a typo that was included in the new 200.332(d)(4). The correction replaces “§300.513(a)(3)(vii)” with “§200.513(a)(3)(vii).”

200.336 Methods for Collection, Transmission and Storage of Information

- Formerly 200.335.
- Continues to encourage Federal awarding agencies and NFEs to “collect, transmit, and store Federal award-related information in open and machine-readable formats rather than in closed formats or on paper.”
- Replaces the provision requiring that this be done “in accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information,” with “in accordance with applicable legislative requirements.”
- Adds: “A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system.”

200.339 Remedies for Noncompliance

- Formerly 200.338.
- Adds “the U.S. Constitution” as an additional source of requirements to those that if an NFE fails to comply with them, may trigger the Federal awarding agency or PTE, as applicable, to impose additional conditions on the NFE.

200.340 Termination (1 of 3)

- Effective 8/13/2020. (Intended rollout is under review by TWC.)
- Formerly 200.339.
- In summary:
 - Eliminates provision that specifically acknowledged the option to terminate award for cause.
 - Adds option to terminate award if program goals or Federal agency priorities are no longer met.
 - Adds provision to terminate pursuant to award provisions.
 - Adds that Federal awarding agencies “should clearly and unambiguously” specify in regulations or awards the conditions under which termination may occur.
- Detail on the next slides.
- Revisions support emphasis on results-oriented accountability for grants.

200.340 (2 of 3)

Specific changes:

- Eliminates former (a)(2), which specifically acknowledged option for a Federal awarding agency or PTE to terminate an award for cause.
 - Determined to be not substantially different from (a)(1), which permits a Federal awarding agency or PTE to terminate for NFE's failure to comply with award terms and conditions.
- Inserts new (a)(2), permitting a Federal awarding agency or PTE to terminate an award, to the greatest extent authorized by law, when the award no longer effectuates program goals or agency priorities.
 - Promotes prioritization of ongoing support to awards that meet program goals. For example, it may be in the government's interest to terminate an award if: (1) following award issuance, additional evidence reveals that a specific award objective is ineffective at achieving program goals; or (2) additional evidence causes an agency to significantly question the feasibility of the award's intended objective.

200.340 (3 of 3)

Specific changes (continued):

- Adds (a)(5), adding that a Federal awarding agency or PTE may terminate a Federal award pursuant to the termination provisions included in that award.
- Inserts new (b) and designates the former text as (c). The new (b) establishes that “a Federal awarding agency should clearly and unambiguously specify termination provisions applicable to each Federal award, in applicable regulations or in the award, consistent with this section.”

200.341 Notification of Termination Requirement

- Formerly 200.340.
- Amends paragraph (b) by adding “the U.S. Constitution” to the sources of requirements, which an NFE’s noncompliance with could trigger termination, and which would therefore require the notice of termination described in this section.

200.344 Closeout (1 of 5)

- Formerly 200.343.
- Amends (a) (due dates for required reports), (b) (liquidation of obligations), and (g) (timeliness of closeout completion). Adds (h) and (i) (both relating to NFE failure to submit required reports timely).
- Refer to the next slides for details.

200.344 Closeout (2 of 5)

- Due date for required reports:
 - For recipients, extends due date for submission of all financial, performance, and other reports required by the terms and conditions of the award from 90 to 120 calendar days after the end of the period of performance. Retains flexibility for Federal awarding agency to authorize an extension.
 - For subrecipients, retains due date for the same submissions to the PTE at 90 calendar days after the end date of the period of performance of the Federal award. Adds that PTE and subrecipient may agree to an earlier date. (TWC generally specifies 60 days after the respective TWC-issued grant award ends.) Retains flexibility for PTE to authorize an extension.

200.344 Closeout (3 of 5)

- Liquidation of obligations:
 - Increases the number of days within which an NFE must liquidate all financial obligations under a Federal award, from 90 to 120 calendar days after the end date of the period of performance of the Federal award.

200.344 (4 of 5)

Timeliness of closeout completion:

- Inserts new first sentence: “When a recipient or subrecipient completes all closeout requirements, the Federal awarding agency or pass-through entity must promptly complete all closeout actions for Federal awards.”
- Revises original text and moves it to the second sentence:
 - Formerly: “The **Federal awarding agency or pass-through entity *should complete*** all closeout actions for Federal awards no later than one year **after receipt and acceptance of all required final reports**”
 - New: “The **Federal awarding agency *must make every effort to complete*** closeout actions no later than one year **after the end of the period of performance** unless otherwise directed by authorizing statutes.”
 - Note: No impact is anticipated by the removal of “PTE” from the original text. To support accuracy of required report submissions, PTE closeout of subawards that PTEs issue would occur prior to their required report submissions. Revised text focuses on closeout at the Federal level.
- Adds: “Closeout actions include Federal awarding agency actions in the grants management and payment systems.”

200.344 (5 of 5)

NFE failure to submit reports timely:

- Adds (h): “If the non-Federal entity does not submit all reports in accordance with this section and the terms and conditions of the Federal award, the Federal awarding agency must proceed to close out with the information available within one year of the period of performance end date.”
- Adds (i): “If the non-Federal entity does not submit all reports in accordance with this section within one year after the period of performance end date, the Federal awarding agency must report the non-Federal entity’s material failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS). Federal awarding agencies may also pursue other enforcement actions per §200.339.”

200.345 Post-Closeout Adjustments and Continuing Responsibilities

- Formerly 200.344.
- Inserts new (a)(3): “(a) The closeout of a Federal award does not affect any of the following... (3) The ability of the Federal awarding agency to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments.”

Section 7

Part 200, Subpart E: Cost Principles

200.403 Factors Affecting Allowability of Costs

- Adds consideration of “budget period” to the general factors for determining the allowability of costs, requiring that costs be incurred during the approved budget period.
 - The text reads: “Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards...(h) Cost must be incurred during the approved budget period. The Federal awarding agency is authorized, at its discretion, to waive prior written approvals to carry forward unobligated balances to subsequent budget periods pursuant to §200.308(e)(3).”

200.413 Direct Costs

- Amends (b), inserting “program evaluation costs” as an example of costs that might ordinarily be treated as indirect costs, but which ‘may be considered direct costs if directly related to a specific award.’
- OMB Circular A-11, “Preparation, Submission and Execution of the Budget,” defines program evaluation.
- The Preamble to the Final Rule comments that: (1) the change is included to assure consistency in Federal awarding agencies’ views of the allowability of program evaluation costs, and (2) the work under the Grants CAP Goal performance work group emphasizes evaluation as an important practice to understand the results achieved with Federal funding.
- Revisions support emphasis on results-oriented accountability for grants.

200.414 Indirect (F&A) Costs

- Amends paragraph (f) to expand the de minimis rate option for indirect costs to any NFE that does not have a “current negotiated rate” (including a provisional rate), except “a governmental department or agency unit that receives more than \$35 million in direct Federal funding.”
 - Formerly: De minimis rate usage was restricted to an entity that had never had a negotiated rate.
- Adds (h), requiring that federally negotiated indirect cost rates (along with the respective distribution base and rate type) be made publicly available on an OMB-designated Federal website. The purpose is to increase transparency. [OMB Memorandum M-21-03](#) designates the [USASpending.gov](#) website for this purpose.

200.416 Cost Allocation Plans and Indirect Cost Proposals

- **Update:** The OMB's 2/22/2021 corrections revised 200.416(c) by replacing the cross reference to “appendices IV, V, and VI to this part” with “appendices V, VI, and VII to this part.”



200.419 Cost Accounting Standards and Disclosure Statement

Amends (a), (b), (b)(1) and (b)(2) relating an institution of higher education's submission of a Disclosure Statement (DS-2).

200.431 Compensation—Fringe Benefits

- Revises (g)(3), relating to pension plan costs, by replacing text as follows:
 - Formerly: “For entities using accrual-based accounting, the cost assigned to each fiscal year is determined in accordance with GAAP.”
 - New: “Except for State and Local Governments, the cost assigned to each fiscal year should be determined in accordance with GAAP.”
- A related comment observes that this change allows States to continue to claim pension costs that are actual and funded.

200.449 Interest

Updates reference to “capital lease.”

- Relating to conditions on the allowability of interest costs on capital assets, revises the example for the condition in (c)(4), which requires an NFE to limit claims for Federal reimbursement of interest costs to the least expensive alternative, by replacing “capital lease” with “lease contract that transfers ownership by the end of the contract,” and inserting the words “other types of.”
 - The example now reads: “For example, a **lease contract that transfers ownership by the end of the contract** may be determined less costly than purchasing through **other types of** debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.”

200.458 Pre-award Costs

Adds: “If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency.”

200.461 Publication and Printing Costs

- Amends (b)(3), replacing “before closeout” with “during closeout” as the time during which an NFE may charge a Federal award for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award.
- Further amends (b)(3) by adding, “If charged to the award, these [aforementioned (b)(3) publication and printing] costs must be charged to the final budget period of the award, unless specified by the Federal awarding agency.”

200.465 Rental Costs of Real Property and Equipment

- Renumbers (c)(5) to (d) and updates terminology, replacing “capital lease” with “financed purchase” (GASB) and “finance lease” (FASB).
- Inserts new (e), relating to “right-to-use lease assets” (GASB) and “right of use operating lease assets” (FASB), as follows: “Rental or lease payments are allowable under lease contracts where the non-Federal entity is required to recognize an intangible right-to-use lease asset (per GASB) or right of use operating lease asset (per FASB) for purpose of financial reporting in accordance with GAAP.”
- Renumbers (c)(6) to (f).

200.471 Telecommunication and Video Surveillance Costs (new)

- This section reads:
 - (a) Costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, cloud servers are allowable except for the following circumstances:
 - (b) Obligating or expending covered telecommunications and video surveillance services or equipment or services as described in § 200.216 to: (1) Procure or obtain, extend or renew a contract to procure or obtain; (2) Enter into a contract (or extend or renew a contract) to procure; or (3) Obtain the equipment, services, or systems.
- See also, 200.16 Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment, and the 200.1 definition for “Telecommunications Costs.”

Section 8

Part 200, Subpart F: Audit Requirements

200.507 Program Specific Audits

Clarifies that a program-specific audit guide is available in “some” (not “many”) cases.

- Amends (a), replacing the word “many” with the word “some” in the first sentence, making that sentence read: “In **some** cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal controls, compliance requirements, suggested audit procedures, and audit reporting requirements.”

200.509 Auditor Selection

- **Update**: The OMB's 2/22/2021 corrections revised 200.509(a) making two changes:
 - Update the cross-reference in the first sentence by replacing “§§ 200.317 through 200.326 of subpart D” with “§§ 200.317 through 200.327 of subpart D.”
 - Remove what was previously the second sentence, which read: “When procuring audit services, the objective is to obtain high-quality audits.”

200.513 Responsibilities [Cognizant Agency for Audit] (1 of 2)

- Amends (a)(1), relating to determination of the cognizant agency for audit, as follows:
 - Clarifies that the cognizant agency for audit is determined based on direct funding as listed on the NFE's Schedule of Expenditures of Federal Awards.
 - Adds: "When the direct funding represents less than 25 percent of the total expenditures (as direct and subawards) by the non-Federal entity, then the Federal agency with the predominant amount of total funding is the designated cognizant agency for audit."
- Amends (a)(2) by removing older dates (2009 and 2014) and a related example.

200.513 (2 of 2)

Amends (a)(3)(ii), relating to a cognizant agency for audit's responsibility to obtain or conduct quality control reviews on selected audits made by non-Federal auditors, as follows:

- Replaces “statistically reliable estimate” with “reliable estimate” in the second sentence, and inserts a new third sentence to make those two sentences read:

“(3) The cognizant agency for audit must... (ii)... Cooperate and provide support to the Federal agency designated by OMB to lead a governmentwide project to determine the quality of single audits by providing a **reliable estimate** of the extent that single audits conform to applicable requirements, standards, and procedures; and to make recommendations to address noted audit quality issues including recommendations for any changes to applicable requirements, standards and procedures indicated by the results of the project. **The governmentwide project can rely on the current and on-going quality control review work performed by the agencies, State auditors, and professional audit associations.**”

- Amends the last sentence—which specifies that the aforementioned “governmentwide audit quality project must be performed once every 6 years, the results of which must be public”—by reflecting that OMB may specify a different interval.

200.514 Scope of Audit

- **Update:** The OMB's 2/22/2021 corrections revised the second sentence of 200.514(c)(4) by dropping the section title from the cross reference to 200.516; i.e., by changing the text, "in accordance with § 200.516 Audit findings" to read "in accordance with § 200.516."

200.515 Audit Opinion

Replaces (a) to clarify the auditor's responsibility to provide an opinion.

- Formerly: ...The auditor's report(s) must state that the audit was conducted in accordance with this part and include the following: **(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole.**
- New: ...The auditor's report(s) must state that the audit was conducted in accordance with this part and include the following: **(a) Financial statements. The auditor must determine and provide an opinion (or disclaimer of opinion) whether the financial statements of the auditee are presented fairly in all materials respects in accordance with generally accepted accounting principles (or a special purpose framework such as cash, modified cash, or regulatory as required by state law). The auditor must also decide whether the schedule of expenditures of Federal awards is stated fairly in all material respects in relation to the auditee's financial statements as a whole.**

Section 9


Appendices to Part 200

Appendix I—Full Text of the Notice of Funding Opportunity

- Amends the text of the Notice of Funding Opportunity that Federal awarding agencies must publish. Makes changes to A. Program Description—Required, and B. Federal Award Information—Required.
- Revisions support emphasis on results-oriented accountability.

Appendix II—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

- In (A), amends the reference to the SAT by removing the associated dollar value (formerly \$150,000).
- Amends (J) by updating and shortening the reference to 2 CFR 200.323 Procurement of Recovered Materials (formerly 200.322).
- Adds (K), cross-referencing to the new 2 CFR 200.216 Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment.
- Adds (L), cross-referencing to 2 CFR 200.322 Domestic Preferences for Procurements.



Appendix III—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

Amends C.11.a.1 relating to negotiation and approval of the indirect (F&A) rate by inserting “directly,” clarifying that negotiation cognizance is based on direct Federal funding.

Appendix IV—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

- Amends C.2.a relating to negotiation and approval of the indirect (F&A) rate by inserting “directly” to clarify that negotiation cognizance is based on direct Federal funding.
- Further amends C.2.a by adding, “If the nonprofit does not receive any funding from any Federal agency, the pass-through entity is responsible for the negotiation of the indirect cost rates in accordance with §200.332(a)(4).”

Appendix IX—Hospital Cost Principles

- **Update:** The OMB's 2/22/2021 corrections removed what was the first sentence of Appendix IX, which read: "Based on initial feedback, OMB proposes to establish a review process to consider existing hospital cost determine how best to update and align them with this Part." The remaining text of Appendix IX is unchanged.

Section 10

**Effective Dates of
Revisions for 2 CFR
Parts 25, 170, 183,
and 200**

Effective Dates*

The revisions for 2 CFR Parts 25, 170, 183, and 200 are effective 11/12/2020, except for the amendments to 2 CFR 200.216 and 200.340, which are effective on 8/13/2020. [85 FR 49506]

*Effective dates are under review by TWC. Changes that take effect 11/12/2020 are generally anticipated to refer to Federal awards that Federal awarding agencies issue on or after that date. [85 FR 49521] An FAQ on the cfo.gov website advises that the changes in 200.216 apply to expenditures that occur on or after 8/13/2020, regardless of when the Federal awarding agency issued the respective award. The application of the 8/13/2020 effective date for 200.340 is under review.

Section 11

Closing Remarks

Reference Document

This slide deck is a reference document and must not be used as a substitute for the 8/13/2020 Final Rule or OMB's subsequent 2/22/2021 corrections. The Final Rule (85 FR 49506; Federal Register notice document/docket number 2020-17468), the OMB's 2/22/2021 corrections (86 FR 10439), and related Federal guidance that is applicable to TWC grant awards prevails if a discrepancy arises. (Update: This slide has been updated to include OMB's 2/22/2021 corrections.)

Questions

TWC employees and TWC subrecipients, please e-mail questions to TWC's Fiscal-TA account at: fiscal.ta@twc.state.tx.us.