

# “Grant Reform, The Uniform Guidance One Year Later” – Administrative and Audit Requirements

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# Subpart D: Post- award administrative requirements changes



# Administrative requirements

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- ▶ The Uniform Guidance consolidates administrative requirements of OMB Circulars A-102 and A-110 into a uniform set of administrative requirements for all federal award recipients
  - ▶ A-110 appears to have been adopted, except for procurement which originates from A-102

# Subpart D - Post Federal Award Requirements- key areas

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- ▶ Financial management
- ▶ **Internal controls**
- ▶ Payment
- ▶ Cost sharing and matching
- ▶ Program income
- ▶ Revision of budget and program plans
- ▶ Property standards
- ▶ **Procurement standards**
- ▶ Performance and financial monitoring and reporting
- ▶ **Sub recipient monitoring and management**
- ▶ Remedies for noncompliance
- ▶ Closeout

# Internal controls

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- ▶ Must have effective internal controls over compliance with federal awards (§200.303)
  - ▶ Should comply with the internal control requirements issued by the GAO *Green Book* or COSO *Internal Control Integrated Framework*
- ▶ COFAR FAQ #1
  - ▶ Should is meant to be a “best practice” and not a presumptively mandatory requirement
  - ▶ COSO and Green Book are provided solely to alert recipients to source documents for best practices
- ▶ Internal controls over compliance requirements moved from OMB Circular A-133

# Procurement – Sections 200.317 through 200.326

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- ▶ In general, the new procurement standards adopt the majority of the language used from Circular A-102. Therefore, non-federal entities that are currently subject to Circular A-110 will likely be affected more significantly.
  - ▶ Documented procurement standards
  - ▶ Standards for identifying and governing organizational and personal conflicts of interest
  - ▶ Five procurement methods specified
    - ▶ Micro purchases
    - ▶ Small purchases
    - ▶ Sealed bids
    - ▶ Competitive proposals
    - ▶ Sole source

# “The Super Circular.”

## New Uniform Rules for Procurement

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The Department adopted the Uniform Rules on December 19, 2014, in an Interim Rule (79 Fed. Reg. 75871), found at 2 CFR Part 200.

- ▶ The Uniform Rules apply to all new grant awards under emergencies and major disasters declared on or after December 26, 2014 (79 Fed. Reg. 75872 and 2 CFR §200.110).
- ▶ The Uniform Rules, where applicable, supersede the procurement standards formerly found at:
  - ▶ 44 CFR §13.36 (applicable to states, local, and Indian tribal governments)
  - ▶ 2 CFR pt. 215 (applicable to institutions of higher education, hospitals, and private nonprofit organizations)

But there is a “grace period” for procurement standards.

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# Contracting

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- ▶ The “non-Federal entity” must comply with the conditions attached to a grant in awarding federally-assisted contracts.
- ▶ A non-Federal entity must comply with the procurement requirements imposed by federal law, executive orders, and federal regulations – which control over non-Federal authorities (such as local procurement standards) to the extent they conflict with federal requirements.
- ▶ *Federal rules relate to more than reasonable cost issues but also seek furtherance of other objectives.*



# Differences in New Procurement Standards I

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- ▶ The new procurement standards devote great attention to the methods of procurement that must be followed
- ▶ Geographic preferences are expressly prohibited
- ▶ Different affirmative steps related to:
  - ▶ small and minority businesses,
  - ▶ women's business enterprises, and
  - ▶ labor area surplus firms
- ▶ Additional documentation requirements concerning the choice of the method of procurement and contract type
- ▶ Conditions precedent for time and materials contracts

# Differences in New Procurement Standards II

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The methods of procurement have changed:

- ▶ Now a micro-purchase method of procurement
- ▶ Clarifies that small purchase procedures apply to simplified acquisitions of \$150,000
- ▶ Removal of the “infeasibility” condition precedent for a procurement through noncompetitive proposals
- ▶ Requirement for sealed bids to be advertised and opened publicly is limited to local and tribal governments

The regulation expressly prohibits contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or proposals from competing for such requirements

# Differences in New Procurement Standards III

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## The cost or price analysis regulation has changed

- ▶ Cost or price analysis only required for procurements exceeding the simplified acquisition threshold
  - ▶ Used to be required for all procurements
  
- ▶ No longer a requirement to conduct a cost analysis when:
  - ▶ Adequate price competition is lacking
  - ▶ Sole source procurements
  - ▶ When the offeror is required to submit the elements of estimated cost
  
- ▶ All non-Federal entities required to perform independent estimate

# OIG Audit Results – FEMA Grant and Subgrant Audit 2009 Thru 2014

Fiscal Year	Awarded Amount (\$B)	Amount Audited (\$B)	% Audited	Questioned amount (\$M)	Funds put to better use (\$M)
2014	\$ 4.04	\$ 3.44	85%	\$ 111.62	\$ 860.14
2013	1.70	1.28	75%	266.22	41.60
2012	1.52	1.25	82%	267.89	147.70
2011	1.72	1.22	71%	307.80	29.09
2010	2.29	1.23	54%	104.48	60.77
2009	1.30	0.93	72%	123.38	15.06
<b>Total</b>	<b>\$ 12.57</b>	<b>\$ 9.35</b>	<b>74%</b>	<b>\$ 1,181.39</b>	<b>\$ 1,154.36</b>
Source: 2014 DHS-OIG Capping Report					

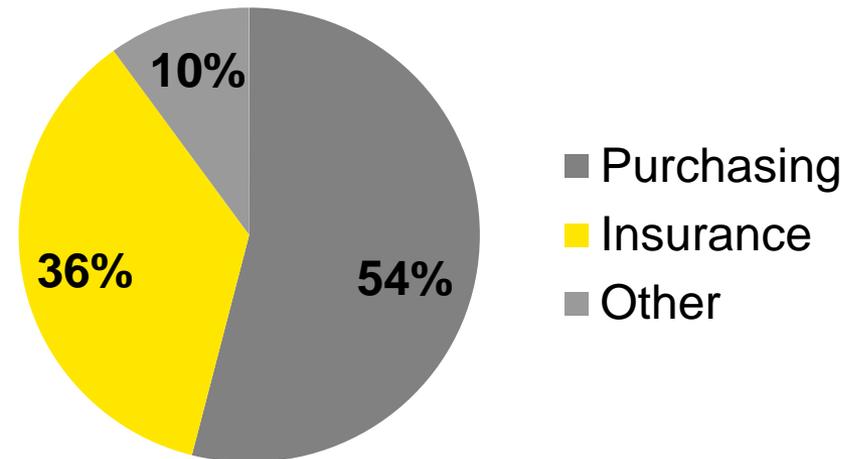
# 2013 Audit Findings

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Based on the 2013 DHS-OIG Capping Report:

- ▶ 90% of the dollar findings related to either purchasing or insurance issues, of one kind or another
- ▶ 10% of the dollar findings were divided up among 8 other categories, including:
  - ▶ Legal responsibility
  - ▶ Miscellaneous ineligible costs
  - ▶ Project accounting
  - ▶ Non-disaster related costs
  - ▶ Work outside of approved scope
  - ▶ Duplicate costs
  - ▶ Other federal funding available
  - ▶ Ineligible force account labor and equipment

## 2013 Audit Findings



Source: 2013 DHS-OIG FEMA Public Assistance Capping Report

# 2013 Audit Findings cont.

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Types of Ineligible Work or Cost	Number of Resulting Recommendations	Amount Questioned in DHS-OIG Reports
1. Contracting Practices	30	\$ 130,245,816
2. Insurance Issues	3	83,679,242
3. Legal Responsibility	2	7,560,185
4. Other Ineligible Work/Costs	85	21,118,786
<b>Total</b>	<b>120</b>	<b>\$ 242,604,029</b>

# Subpart F

## Audit requirement changes



# Sec. 200.5XX, Audit Requirements

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- ▶ Revisions focus audit on risk:
  - ▶ Increases audit threshold to \$750,000
  - ▶ Focuses on risk based approach to determine major programs.
    - ▶ Fewer types of findings cause a Type A program to be high risk
- ▶ Provides for greater transparency of audit results.
- ▶ Basic structure of the single audit process remains unchanged

Subpart F will be effective for non-Federal entity fiscal years or biennial periods beginning on or after December 26, 2014.

**EARLY IMPLEMENTATION OF SUBPART F IS  
NOT PERMITTED**

# Major Program Determination Changes

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- ▶ Minimum percentage coverage requirements changed from 50% to 40% and 25% to 20% for low risk and non-low risk auditees, respectively
- ▶ Additional criteria in each of two prior years to qualify for low risk auditee status
  - ▶ No reporting of going concern and unmodified opinion on financial statements in accordance with GAAP or basis of accounting required by state law
- ▶ Type A/B Threshold changes
  - ▶ Minimum increases from \$300,000 to \$750,000
- ▶ High-risk Type A and B program criteria changes

# Sec. 200.510(b) SEFA Additions

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- ▶ Total amount provided to subrecipients from each federal program
  - ▶ Previous guidance only required “to the extent practical”
- ▶ Include in the notes to the SEFA whether or not non-federal entity elected to use the 10% de minimis cost rate
- ▶ Totals for cluster of programs on the face of the SEFA
- ▶ Federal awards expended related to loan programs and non-cash assistance must now be on the face of the SEFA, not the notes to the SEFA
  - ▶ Ending balance of loans outstanding (except for loans with continuing compliance requirements not made by institutions of higher education) is also disclosed in the notes to the SEFA

# OMB uniform audit requirements – findings

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- ▶ Emphasis on proper perspective information in findings
- ▶ Indicate whether current year finding was a repeat of a prior year finding and the prior year finding number
- ▶ Threshold for reporting questioned costs findings increases from \$10,000 to \$25,000

# OMB Uniform Guidance Reporting Requirements

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- ▶ Corrective action plan is a separate document on non-federal entity letterhead
- ▶ Corrective action plan and summary schedule of prior audit findings will now include financial statement findings
- ▶ Summary schedule of prior audit findings will have to indicate reason for findings not being fully corrected and any differences between planned corrective actions and those previously reported

# Single Audit Reports on the Web

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- ▶ All auditees must submit the reporting package and the DCF electronically to the FAC.
- ▶ FAC responsible to make the reports publically available on a website:
  - ▶ Exception for Indian Tribes
- ▶ Auditors and auditees must ensure reports do not include Protected Personally Identifiable Information (PPII);
  - ▶ Auditee must sign certification statement (to be revised on DCF) that reporting package does not include PPII
- ▶ Federal agencies and pass-through entities obtain copies by accessing FAC Website.

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