

# UGG/EDGAR Revisions

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- **UGG requirements must be reviewed every 5 years**
- **New Federal Regulations Federal Register Notice only contains the changes, go to eCFR for full version**
- **Local and ESC staff need to independently read, review, and implement the revisions**

# Why UGG Revisions

- **Federal Register announcing final changes:**

<https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17468.pdf>

- **Current UGG per eCFR website:**

<https://ecfr.federalregister.gov/current/title-2/subtitle-A/chapter-II/part-200>

# General Reasons for Changes

- **Procurement changes to better target areas of greater risk and conform to statutory requirements**
- **Strengthen merit review and improve government wide approach to performance and risk**
- **Standardize terminology, data elements, and align with other authoritative source requirements**
- **Emphasize machine readable information formats**
- **Change closeout to reduce burden and support the GONE Act**
- **Expand use of de minimus IDC rate (not in education grants)**
- **Clarify common areas of misinterpretation**

- **200.216 and 200.340 effective August 13, 2020**
- **All other sections effective with new grant awards on or after November 12, 2020**
  - ESSER II and July 1, 2021 awards
  - Carryover funds follow new award rules

- **Definitions no longer numbered separately**
- **New citations added**
- **New specific items of cost added and numbers changed for other items**

- **200.332 – Subrecipient Monitoring**
- **200.331 – Defining Contractor v. Subrecipient (grant)**
- **200.332 – Responsibility for Subawards**
  - Subaward Information
  - Evaluating risk of subrecipient
  - Specific conditions
  - Monitoring
  - Single audit and management decisions
  - Enforcement actions



## 200.1

- **Period of Performance defined as total estimated time between the start of an initial award and the planned end date, which may include multiple budget periods**
- **Does not commit the fed agency to fund the award beyond the current approved budget period**
- **LEA should not budget for 27 month availability as the budget period is 15 months with second budget period for carryover**
- **High carryover is still high risk factor**

## **200.208 – Specific Conditions**

- **Specific conditions may be adjusted by feds or TEA as needed**
- **TEA can lessen the specific condition requirements based on risk of subrecipients**
  - Such as allowing advance payments, requiring less documentation for implementation or reporting, less monitoring, or not requiring prior approvals for low risk subgrantees

## **200.210 – Nonbinding Guidance**

- **Feds cannot reference guidance as part of terms and conditions of grant award**
- **Feds can only impose legally binding requirements on subrecipient through notice and public comment process**
  - Does not change TEA's ability include additional requirements in grant award to meet TEA's federal or state requirements; however, TEA cannot change the programmatic requirements, limits, or set-asides

## 200.216

- **Defines vendors owned by foreign entities or foreign governments as risk to nation**
- **Applies to new contracts, services, equipment, and any renewals or extensions of contracts or services from such vendors**
- ***Have your legal staff review this section***
- **Effective 8-13-2020**

## 200.232

- **Delineated responsibility for management decisions for systemic findings and non-systemic (programmatic) finding**
- **Auditors and cognizant agency for audit (fed agency) responsible for systemic issues cited**
  - TEA is cognizant agency for audit for K-12 LEAs in Texas
  - TEA not necessarily cognizant for nonprofit subgrantees
- **Pass-through entity responsible for non-systemic, programmatic findings**
  - TEA must still manage risk of LEAs through subrecipient monitoring of subgrantees

## **200.309**

- **Section revises to allow pass-through entity to also to approve an extension to grants without Tydings Amendment authority (carryover)**
- **TEA can now approve no cost extensions to discretionary grants without carryover**
- **This extension creates a new period of performance and budget period**

## **200.309**

- **Deleted TEA's authority to allow preaward costs in grant applications; somewhat addressed in 200.458**
- **Only fed agency can allow preaward costs to TEA subgrantees**
- **TEA had requested across the board authority to allow preaward cost in November; still in negotiation**

## 200.320

- **Requires subgrantee to have and use documented procurement procedures**
- **Classifies procurement methods;**
  - Informal
    - Micro-purchase
    - Small purchase
  - Formal
    - Competitive sealed bids
    - Competitive proposals
  - Noncompetitive



## **200.320**

- **Must distribute to the maximum extent practicable among qualified suppliers**
- **Price must be reasonable**
- **Defined that price reasonability must be based on research, experience, purchase history, or other information AND document accordingly**

## 200.320

- **Micro-purchase threshold officially \$10,000 aggregate across federal funds for fiscal year**
- **LEA may self-certify a threshold up to \$50,000 if they are:**
  - low risk auditee for most recent federal audit (200.520) or
  - annual internal risk assessment to identify, mitigate, and manage financial risk
- **Subgrantee determines local threshold based on internal controls, risk and documented procedures**



## 200.320

- **LEA may self-certify, when eligible**

- LEA must have written policy justifying and clearly identifying self-certified threshold
- Up to \$49,999 micro-purchase threshold (state rules require competition at \$50,000)
- From \$25,001 to \$49,999 threshold, the LEA must notify TEA of the threshold
  1. LEA will submit written policy, and
  2. LEA will submit verification of risk level of most recent federal audit OR internal risk assessment and internal controls for mitigating and managing financial risks



## **200.320**

- **Adds micro-purchases as allowable noncompetitive procurement**
- **Clarifies that during public emergency situation does not permit for a delay resulting from *publicizing* a competitive solicitation**

## **Noncompetitive procurement.**

- 1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (NEW);**
- 2. The item is available only from a single source;**
- 3. The public exigency or emergency for the requirement will not permit a delay resulting from *publicizing* a competitive solicitation;**
- 4. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or**
- 5. After solicitation of a number of sources, competition is determined inadequate.**

## **200.322**

- **To greatest extent practicable, LEA must provide a preference for purchases of goods and materials produced in US**
- **Preference must be included in all subawards, contracts, and purchase orders**

## **200.340**

- **Adds termination for an award no longer effectuating the program goals or agency priorities**
  
- **Effective 8-13-2020**

## **200.344**

- **Increased grant closeout timeline from 90 days to 120 days**
- **Subrecipient will have 90 days to closeout grants (currently 60 days)**
- **Unless there is an extension approved, all obligations must be liquidated no later than 90 days by subgrantee**
- **TEA will have remaining 30 days; USDE has to change their closeout process before TEA can implement for LEAs**



## **Indirect Cost Rate Changes**

- **Program evaluation must be charged as direct cost, not indirect**
- **De Minimus rate still not apply to education grants because a de Minimus rate is always an unrestricted rate, which is normally not allowed by USDE grants**
- **TEA still issues LEA rates; 76.564 overcedes new 200.332(a)(4) section about accepting LEA IDCR from other agency**

## 200.403

- **Basic factors of allowability of cost added “be incurred during the approved budget period”**
- **Did not remove other requirements**



## **Cost must still meet the following to be allowable:**

- Be necessary, reasonable and allocable
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately documented
- Be incurred during approved budget period **(NEW)**

## 200.458

- **Preadward costs only allowed after the effective date of the grant and with written approval of the federal awarding agency. These cost must be charged to the initial budget period of the grant, unless approved by the fed agency or pass through entity.**
- **New language only allowed TEA to approve budget period for preaward, not authority to approve preaward**
  - TEA may still have authority to allow preaward cost for discretionary grants under EDGAR Part 76.709-710 (Tydings not apply to discretionary); but definitely not for formula grants

## 200.471

- **Adds telecommunications and video surveillance services and equipment as generally allowable, except**
  - Items under 200.216 defined as vendors owned by foreign entities or foreign governments as listed in most current version of 200.216
  - Applies to new contracts, services, equipment, and any renewals or extensions of contracts or services from such vendors
  - 200.216 was effective 8-13-2020

## **200.475**

- **Reiterates charges must be consistent with the subgrantees written travel reimbursement policies**
- **Retains requirement for subgrantee to document that participation in the travel by the individual is necessary for the project implementation**

# Next Steps for LEAs

**??? What does this mean for my LEA ???**

- **Read and review UGG changes for yourself**
- **Train staff, including program and fiscal staff**
- **Read and review UGG changes for yourself**



- **Update all local policies and procedures to align new UGG citations**
- **Specifically, update procurement procedures**
- **Develop new policy or incorporate micro-purchase threshold into procurement policy**
- **Policy Updates due July 1, 2021**

**This will be monitored in 2021-2022**

- **Pandemic Policy Updates**

- Compensation/benefits
  - Time and effort
  - Travel reimbursements
  - Allowability
  - Inventory management
- 
- Ensure effective date is on policy update and state it only applies in times of pandemic or disaster.

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