California Governor's Office of Planning and Research (OPR) State Clearinghouse

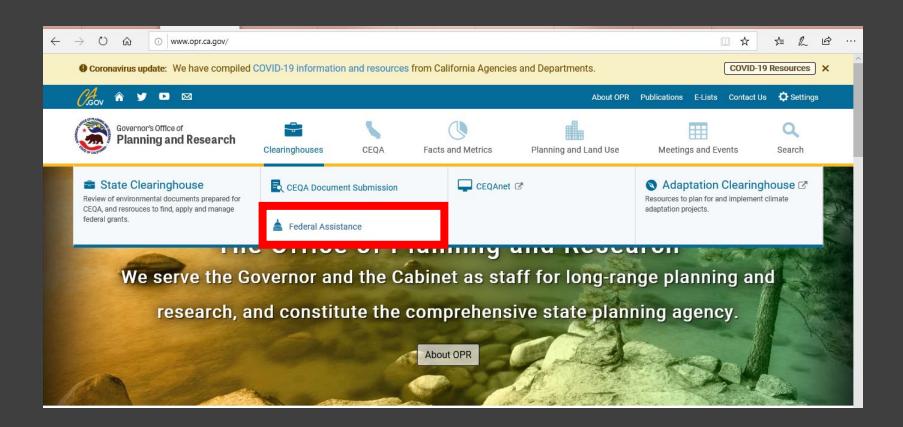






Federal Assistance

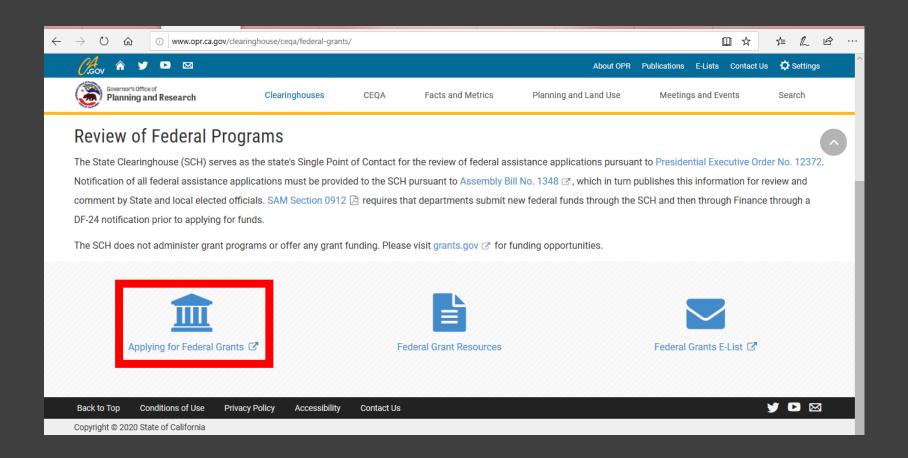






Applying for Federal Grants

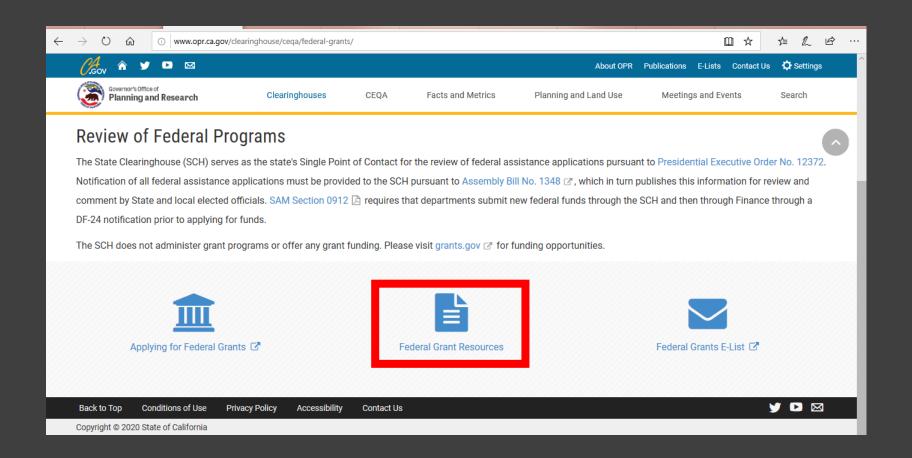






Federal Grant Resources

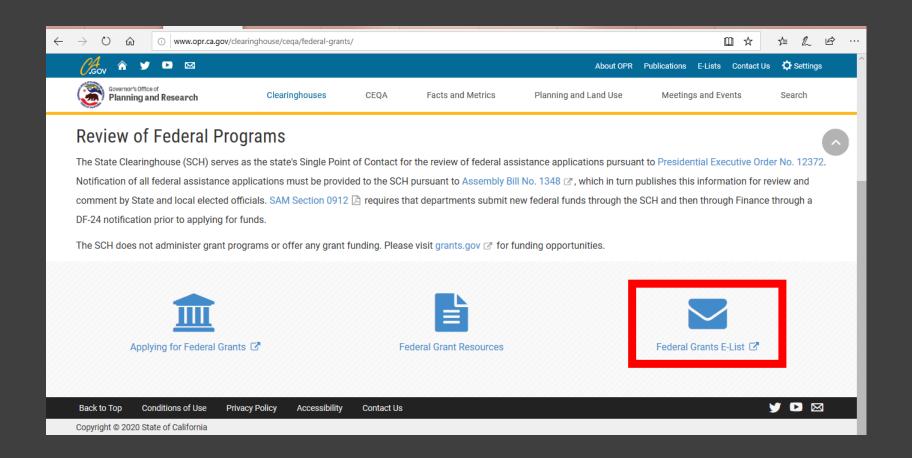






Federal Grants E-List





Webinar Presentation



2020 Update: Uniform Guidance

By Karen Norris, Principal Kanoco Consulting

Prepared for Governor's Office of Planning and Research State of California



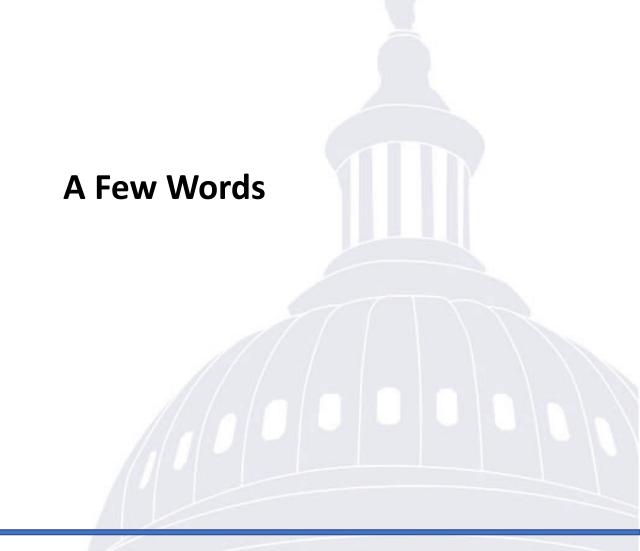




Learning Objectives

- Name past federal regulations, legislation, and other federal actions that impacted the uniform guidance.
- Explain past funding issues that placed grants at risk.
- Identify the proposed 2020 updates.
- Raise awareness about technology and data.







A Few Words

The uniform guidance is a living document.

Revisions occur over time as new legislation and other requirements are implemented.

OMB released a proposed update to the uniform guidance on 1/22/20.



A Few Words

In addition to OMB, there are other influences such as the President's Management Agenda, Executive Orders, and Presidential Memos.

Developments in technology and use of data are also changing the way we manage federal funding.

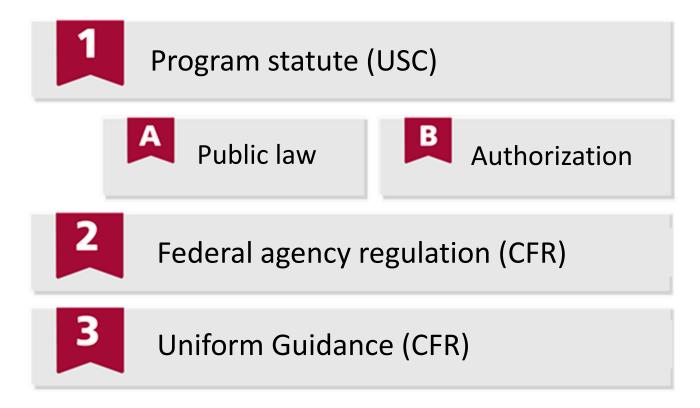


Learning Objective #1

Past Federal Regulations, Legislation, and Other Actions



Federal Regulations that Govern Grants





Other Federal Actions



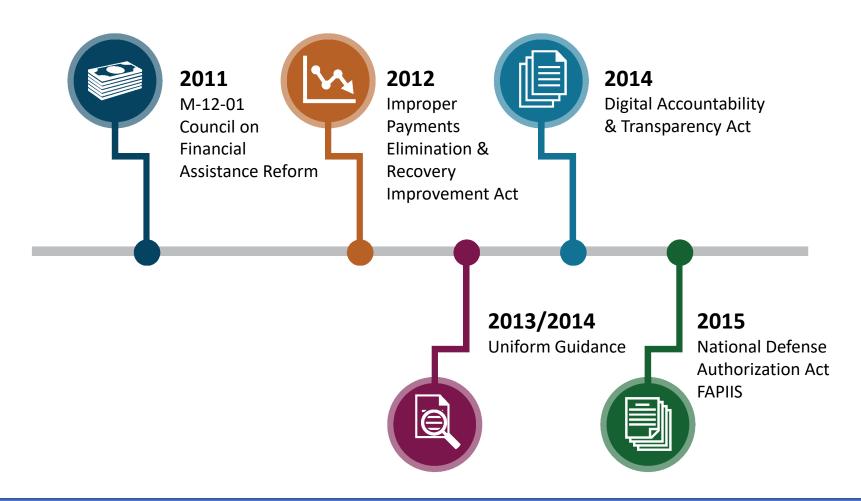
- 2 Executive Orders
- Presidential Memos



Public Laws and Other Actions 2009 EO 23120 **Reducing Improper Payments** 1977 1999 **National Defense Federal Federal Authorization Act FAPIIS** Grants & **Financial** Cooperative **Assistance** American Reinvestment & Agreement Act Management Recovery Act Improvement Act 2006 2010 **Federal Funding Improper Payments** Accountability & Elimination & Transparency **Recovery Act** Act

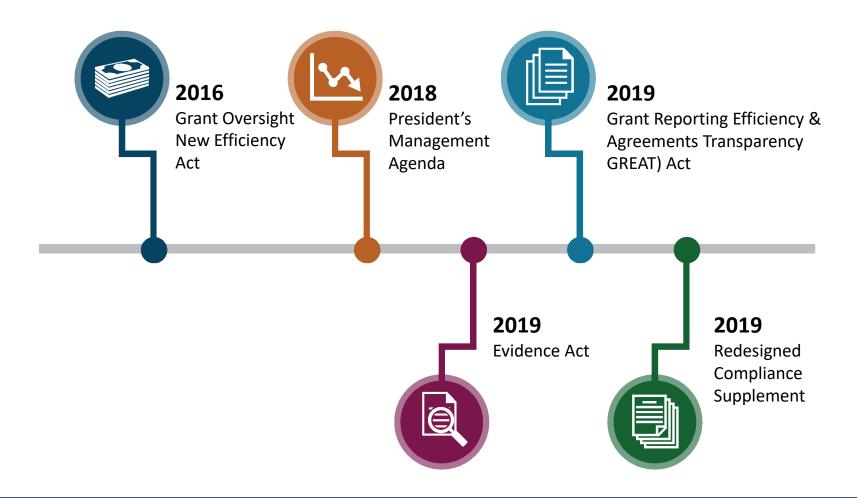


Public Laws and Other Actions





Public Laws and Other Actions





Legislation and Digital Assets

Date	Name	Website
1999	FFAMIA	www.grants.gov
2006	FFATA	www.usaspending.gov
2009	ARRA	www.recovery.gov
2009	NDAA	www.FAPIIS.gov
2010	IPERA	www.paymentaccuracy.gov
2012	CCR/others	www.SAM.gov
2014	DATA Act	www.USAspending.gov (beta) & www.fedspendingtransparency.github.io



Executive Orders (EOs)

 An executive order delivers a statement or proclamation from the White House on a wide variety of matters from naming a statue to significant domestic actions.





Executive Orders (EOs)

EOs have the force of law, but bypass Congress.





Executive Orders (EOs)



<u>Lincoln</u> Emancipation Proclamation



Truman
Integrated Armed Forces



GW BushRestricted Public Access to Papers



<u>Obama</u> Rescinded it



EOs that Impact Financial Assistance

EO	Description
EO 12549	Suspension and Debarment
EO 13450	Improving Program Performance
EO 13520	Reducing Improper Payments
EO 13576	Delivering an Efficient Government
EO 13642	Open Machine-Readable Formats



Presidential Memos

- The White House issues memos (through OMB) to federal agencies to take action on a matter.
- These memos can be rescinded by a subsequent presidential administration.





Presidential Memos



<u>Clinton</u> Y2K readiness



GW BushAgencies to post on Grants.gov



Obama
Report metrics of Uniform Guidance



TrumpRescinded metrics of Uniform Guidance

Memos that Impact Financial Assistance

Memo	Description
M-11-31	Delivering an Efficient Government
M-12-01	Council on Financial Assistance Reform
M-12-02	Suspension and Debarment
M-14-17	Improving Shared Services
M-19-16	Shared Services



The Uniform Guidance has been, and will continue to be, updated since its first release.



DUNS replaced with unique entity identifier



FAPIIS provisions added (200.212, App XII)



Procurement revised



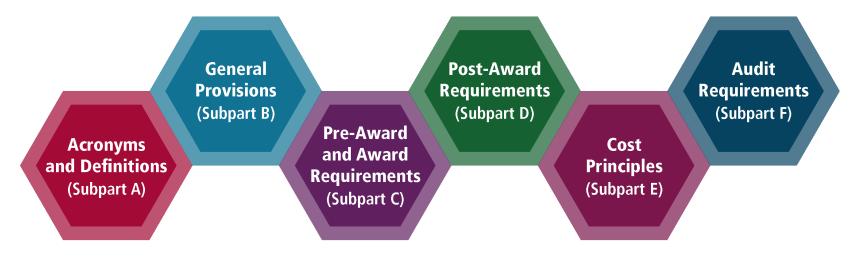
Three-year grace period



New procurement threshold (M-18-18)



Structure of Uniform Guidance (2 CFR 200)



200.1 200.100s 200.200s 200.300s 200.400s 200.500s

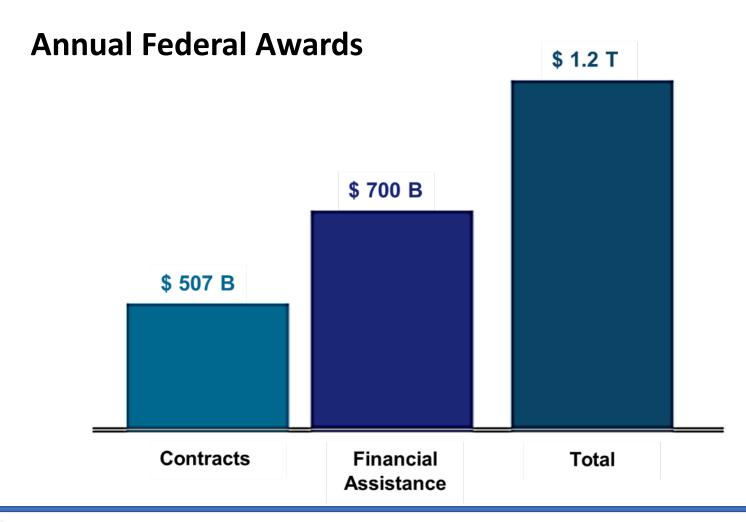
12 Appendices



Learning Objective #2

Funding Levels and Risk





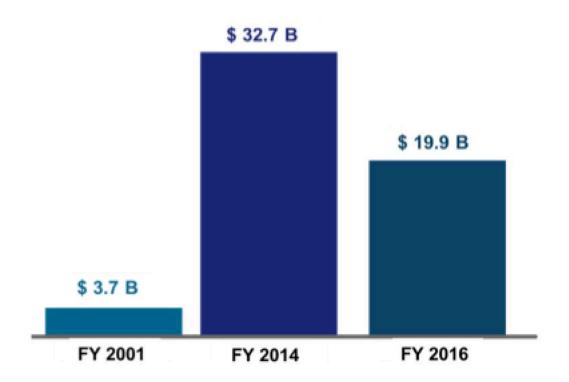


Here's the Issue: Improper Payments

Year	Improper Payments
2012	\$108 billion
2013	\$106 billion
2014	\$125 billion
2015	\$137 billion
2016	\$144 billion
2017	\$141 billion
2018	\$151 billion
2019	\$175 billion
	GAO Report 20-344



Recovery of Improper Payments



Council of the Inspector General on Integrity and Efficiency (CIGIE) report.



Recovery of Improper Payments



The need for greater stewardship of federal funds and the risk of waste, fraud, and abuse, have resulted, not only in updates to the uniform guidance, but also in recovery audits.



Learning Objective #3

Identify New 2020 Updates



Federal Register 1/22/10 Proposed Rule

- OMB published the proposed changes in the Federal Register.
- Vol 85, No. 14, Pg. 3766.
- The Federal Register notice: <u>https://www.federalregister.gov/documents/2020/01/22/2019-28524/guidance-for-grants-and-agreements</u>



Federal Register 1/22/20 Proposed Rule

- A "track changes" version of the proposed guidance:
 - https://www.performance.gov/CAP/innovationsessions/Grants-CAP-Goal-Proposed-2CFR-Revision1.pdf.
- Public comments are requested at <u>www.regulations.gov</u>, docket OMB-2019-0005, through 3/23/20.
- Final Rule will be subsequently published.



Four Strategies

- Standardize grants management business processes and data.
- Build shared IT infrastructure.
- Manage risk.
- Achieve program goals and objectives.



Four Parts under 2 CFR have Updates

- 2 CFR 25.
- 2 CFR 170.
- 2 CFR 183 (new).
- 2 CFR 200 (uniform guidance).



2 CFR 25 UEI and SAM.gov

- Transition from DUNS to UEI.
- Nonfederal entities must register or renew annually in SAM.gov.
- Registrants must also provide information on owners, predecessors, parent and subsidiary companies, in addition to the organizational information.



2 CFR 25 Appendix A

• "...you as the recipient must contain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a federal contract or grant within the last three years..."



UEI and Federal Register 7/10/19 (84 FR 32916)

- GSA announcement.
- Phase-out of DUNS through 2020.
- Non-proprietary 12-digit number.
- Assigned at SAM.gov renewal.
- Login.gov authentication.





UEI and General Services Administration

- Links:
 - Go to https://www.login.gov to check authentication credentials.
 - Visit <u>www.gsa.gov/entityid</u> to read about the unique entity identifier (UEI) to replace DUNS.
 - Article: https://kanoco.com.





2 CFR 170 Subaward Reporting

- Require award and subaward reporting on the OMB-designated, government-wide website.
 - Agencies must report awards over the micro-purchase threshold.
 - Award terms must be included for awards over \$30,000.



2 CFR 170 Subaward Reporting

- Reporting includes awards to federal agencies, foreign organizations, foreign public entities, and for-profits.
- Reporting for subawards over \$30,000.



2 CFR 183 - Never Contract with the Enemy

- NDAA of 2015 included requirements for the federal contract community not to award federal contracts to hostiles or combatants.
- NDAA of 2015 sunset December 2019.
- New 2 CFR 183 continues the requirement for the contract community and extends to the grant community.
- Applies to grants over \$50,000 performed outside the US.



Updates for 2 CFR 200 Uniform Guidance



Subpart A – Definitions 200.1

- Separate provision numbers removed.
- All definitions under 200.1 for ease of addition and/or removal.
- Definition of nonfederal entity was not revised:
 - Missing foreign public entity, foreign organizations, forprofits.
 - Also missing federal agency (as a recipient).



Standard and Common Forms

- Standard forms are used by all federal agencies, government-wide.
- Common forms are used by two or more federal agencies, or government-wide.
- OMB prefers use of "common" form to encourage federal agencies to work toward common data solutions, increased efficiency, and better accountability.



Standard Form (SF 424B) - Assurances

- M-18-24.
- Phased-out use of SF 424B in proposals in 2019.
- Assurances transition from Grants.gov to SAM.gov.
- Nonfederal entities sign representations and certifications at time of renewal.



In General - Updates to Other Forms

- Standard forms still used for financial reporting.
- SF 425 updated, expiration 2/28/22.
- Property forms updated.
- Expiration date printed in footer.
- Access latest copy of forms from Grants.gov under forms tab.



Applicability 200.101(a)(2)

- Federal agencies may apply Subparts A-E to forprofit entities, foreign public entities, or foreign organizations.
 - Not "must."
- Questions remain about Subpart F audit and federal agencies who receive awards from other federal agencies.
- This does not match the revised language in 2 CFR 25 and 2 CFR 170.



Metrics and Reporting 200.109

- Metrics every five years since 2013.
- M-14-17 reaffirmed metrics.
- M-17-26 rescinded metrics (and COFAR).
- "Metrics" now at www.performance.gov for the President's Management Agenda, CAP Goal 8: Results-Oriented Accountability for Grants.



Effective Date 200.110

- Negotiated indirect cost rates remain in place until re-negotiated.
- Changes to indirect rates become effective at the nonfederal entity's next fiscal year.



Program Planning and Design 200.202 (New)

- Grants and cooperative agreements must achieve program goals and objectives.
- Supports PMA.
- Granting agencies to hold recipients accountable for performance.
- Reflects Evidence Act to advance data and "evidence-building functions."
- Logic models may be used.



Public Notice of Funding Opportunities 200.203

- Catalog of Federal Domestic Assistance (CFDA).
- CFDA becomes Assistance Listings.
- Old website <u>www.cfda.gov</u>.
- New website https://beta.sam.gov.
- Listing must align with federal agency's strategic plan and Part 6 of OMB A-11 to include performance measures, management, and required reporting.



New 200.215 Never Contract with the Enemy

- New provision to align with 2 CFR 183.
- For federal grants and cooperative agreements over \$50,000 to be implemented outside the United States.



New 200.216 Prohibition on Certain Equipment

- Communications and video surveillance.
- List of known companies to avoid.
- Other companies, as identified by Secretary of Defense, National Intelligence Director, or FBI.



Performance Measurement (200.301)

- Federal awarding agencies and nonfederal entities must measure performance.
- Performance goals, indicators, and milestones must be included in award agreement (200.211).
- Must align with Evidence Act.



Procurement (200.316 – 200.325)

- Three-fiscal year grace period for procurement, ended FY 2018.
- FY 2019 first year all nonfederal entities must follow the procurement provisions.
- Previous citations 200.317-200.326, now 200.316-200.325.
- New and revised requirements in 2020.



Procurement Thresholds (200.319)



- NDAA 2017 and 2018 raised procurement thresholds.
 - Micro-purchase from \$3,500 to \$10,000.
 - Simplified Acquisition Threshold from \$150,000 to \$250,000.
- Uniform guidance is now updated.

Procurement Thresholds



- FAR not yet updated.
- M-18-18 allows use of new thresholds in advance of updates.



Significance of Procurement Thresholds



- Any purchase below the simplified acquisition threshold is considered a small purchase (200.319(a)(2)).
 - No need for a bid process.
 - Adequate number (2-3) price quotes.
 - Much simpler procurement.

Procurement and Buy American (200.321) (New)

 Nonfederal entities are encouraged to use goods, products, and materials that are produced in the United States.





Grant Reporting (200.328)

- Grant Reporting Efficiency and Agreements Transparency (GREAT) Act.
- Enacted into law 12/30/19.





GREAT Act

- Government-wide data standards in one year.
- Implement new standards in two years.
- Publish grant reports on government-wide website.



Machine-Readable Formats 200.335

- OMB to clarify collection, transmission, and storage of data.
- Supports PMA CAP Goal 2.
- Supports Evidence Act.



Indirect Costs/De Minimis Rate 200.414(f)

- Expanded use of the de minimis rate any nonfederal entity may elect to use the 10% de minimis rate on MTDC, unless a state/local/tribal agency expending more than \$35M in federal awards a year (Appendix VII).
- All negotiated rate agreements will be posted on a new public website.



Closeout 200.343

- Subrecipients to submit final reports to passthrough entities within 90 days of the end of period of performance.
- Recipients (including pass-throughs) must submit final report to federal agencies by 120 days, increased from 90 days.
- Federal agencies must complete closeout by one year after end of period of performance.



Closeout 200.343(h)

 If NFE does not submit final report on time, federal agency must close the project using available information and must report the NFE in FAPIIS as a material failure to comply with award terms.

"(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 closeout with the information available, within one year of the period of performance end date. The Federal awarding agency must report the non-Federal entity's failure to submit required reports to the OMB-designated integrity and performance system (currently FAPIIS) as the non-Federal entity's material failure to comply with the terms and conditions of the award. Federal awarding agencies may also pursue other enforcement actions per §200.338."





2019 Compliance Supplement Appendix IX

- Reduce administrative burden.
- Decrease compliance tests from 12-6 per program.
- Part 2 Matrix identifies the compliance tests for each program.
- The 2020 Compliance Supplement is not yet released.



Timeline of Changes

- 1/22/20 proposed rule published in FR.
- 3/23/20 public were comments due.
- OMB is reviewing public comments to incorporate those, as appropriate, into the Final Rule.
- Final Rule will be published in the FR, timeline TBD.



Key Presidential Memos – COVID-19 and Grants

- M-20-11
 - Admin Relief for Recipients (of COVID-19 grants).
 - Loss of operational capacity.
- M-20-17
 - Expanded M-20-11 to all recipients.
 - Provided flexibility to federal agencies.



Key Presidential Memos – COVID-19 and Grants

- M-20-17 Flexibilities
 - Relaxed SAM.gov registration renewals.
 - Waiver of application deadlines (must post on websites).
 - Waiver of NOFO (200.203) less than 30 days for emerg.
 - No-cost extensions.
 - Abbreviated continuation requests.
 - Allowability to cover salaries continue to pay staff.
 - Allowability of costs for cancellation of events.
 - Waiver of prior approvals.



Key Presidential Memos – COVID-19 and Grants

- M-20-17 Flexibilities
 - Procurement exemptions (geographic preference, others).
 - Reporting up to three months delay.
 - Indirect up to one year extension.
 - Closeout up to one year extension.
 - Single audits up to six month delays.



LO3: Updates

Key Presidential Memos – COVID-19 and Grants

- M-20-20
 - Repurpose existing grants to COVID-19.
 - Class exception under 200.102.
- M-20-21
 - Expediency
 - Emergency procurements flexibility.
 - Sound data management.
 - Agency reporting for COVID-19 funding treated as disaster emergency funding, outlay reporting code.



Learning Objective #4





Data Collections

- Growing importance of IT modernization.
- Growing importance of data and data analytics.
- Data collections used to prevent waste, fraud, and abuse.



Federal Interest in Data Collections

- Several federal websites were developed.
 - Grants.gov
 - USAspending.gov
 - FAPIIS.gov
 - Data.gov
 - Fedspendingtransparency.github.io
 - Paymentaccuracy.gov
 - SAM.gov
 - More...



Recovery Operations Center

- Recovery Act created a data analytics center.
- Created a fraud-risk scorecard.
- Reviewed progress reports on Recovery.gov.
- Compared progress reports to the proposal and award agreement.



Recovery Operations Center

- Access to databases:
 - SSA death master files.
 - HUD credit verification bureau
 - FBI records
 - Credit bureau reports
 - More...





Disaster Relief Appropriations of 2013

- Title IX of Pub. L. 113-2
 - "(d) Through September 30, 2015, the Recovery Accountability and Transparency Board shall develop and use information technology resources and oversight mechanisms to detect and remediate waste, fraud, and abuse in the obligation and expenditure of funds appropriated in this or any other Act for any fiscal year of such period for purposes related to the impact of Hurricane Sandy..."



Hurricane Sandy Analytics

- Coordinated efforts with OMB.
- Coordinated with federal agency OIGs.
- Submitted quarterly reports to Congress related to funds appropriated for the impact of Hurricane Sandy.





DATA Act of 2014

- Improve USAspending.gov.
- Transition USAspending.gov from GSA to Treasury (federal financial systems).
- Improve data collections.
- Detect and prevent fraud.
- Create 57 standard data elements.
 - Federal agencies needed to update IT systems.
 - Federal agencies needed to update fields.



DATA Act of 2014

- Section 6 Accountability for Federal Funding:
 - DATA ANALYSIS CENTER.—
 ''(1) The Secretary may establish a data analysis center or expand
 an existing service to provide data, analytic tools, and data
 management techniques to support:
 - "(A) the prevention and reduction of improper payments by Federal agencies; and
 - "(B) improving efficiency and transparency in Federal spending."



Technology and Machine-Readable Formats

- M-13-13 data must be accessible
- EO 13642 open formats become the default.
- 200.335 open machine-readable formats.
- OPEN Data Act
 - OMB and GAO to publish reports in one year.
 - GSA to maintain Federal Data Catalog.



Shared Services Model

- Creation of the Federal Integrated Business Framework (FIBF)
 - FIBF to approve standard data elements.
 - FIBF to identify performance metrics.
 - 426 grants management data elements approved,
 Version 1 posted on website.
 - www.ussm.gsa.gov/fibf



Standard Grant Management Data Elements

www.ussm.gsa.gov/fibf-gm



https://ussm.gsa.gov/assets/files/GRM.2019.Update d DataStandards2.0.pdf



Technology and M-19-18

- Federal Data Strategy.
- Related to CAP Goal 2 Data, accountability.
- Promote public use and better manage federal data.
- Protect data and support transparency.
- https://www.strategy.data.gov.



Federal Data Strategy 2020 Plan

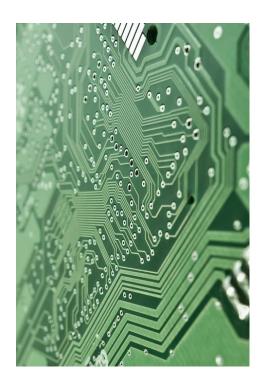
- 20 action steps with milestones were identified.
- Highlights:
 - Increase staff data skills.
 - Identify agency open data plans.





Federal Data Strategy 2020 Plan

- Resources, Use Cases:
 - www.data.gov.
 - www.resources.data.gov.
 - https://strategy.data.gov/i ncubator.





Foundations for Evidenced-Based Policymaking Act

- Enacted 1/14/19 (Pub. L. 115-435).
- Three Titles:
 - Title I: Federal Evidence-Building Activities.
 - Title II: Open, Public, Electronic, and Necessary (OPEN)
 Government Data Act.
 - Title III: Confidential Information Protection and Statistical Efficiency



Technology and M-19-23

- Anticipated outcomes:
 - Open data by default.
 - Data inventory.
 - Federal data catalog.
 - Data assets made available.
 - Secure access.
 - Standardized data.





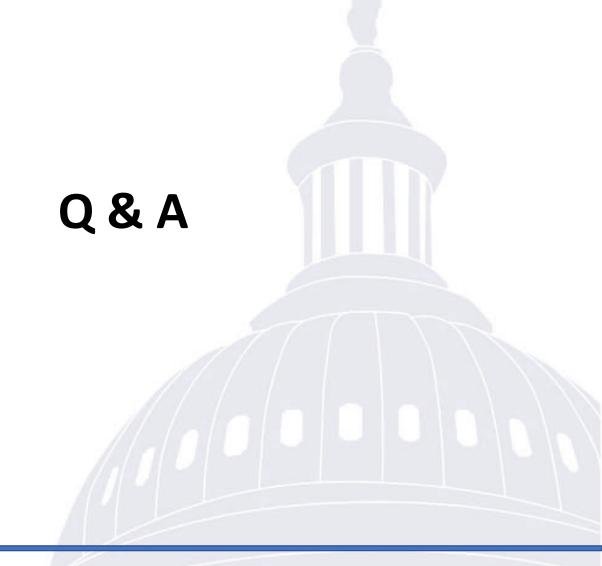
In Summary

Timeline of Changes

- 1/22/20 proposed rule published in FR.
- 3/23/20 public comments due.
- OMB will review public comments and incorporate those, as appropriate, timeline TBD.
- Final Rule will be published in the FR, timeline TBD.
- There is growing interest in performance & results.
- There is growing interest in data collections.



2020 Update: Uniform Guidance





Friendly Disclaimer

Please be reminded:

This presentation is intended to provide general information and does not constitute legal or financial advice. Please consult with your legal and financial advisors. I hope, however, that the information helps provide some insights as you further pursue your work in the grants community.



Webinar

Prepared For



- Governor's Office of Planning and Research.
- State of California.



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