**COFAR FAQs (CFR 200.400-200.458)**

**200.400**

***.400-1 Fixed Amount Subawards and Profit***

Section 200.400(g) states that a non-Federal entity may not “earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award.” Does that mean that a non-Federal entity cannot retain any unexpended balance on its fixed amount awards and subawards?

No. Section 200.400 (a)(3) provides an exception to this policy for fixed amount awards. See also FAQ .401-1. Provided that the cost of a fixed amount award was determined according to the Uniform Guidance, any residual unexpended balance that remains at the end of a completed award is not “profit” and, therefore, can be retained.

***.400-2 Dual Role of Students and Post-Doctoral Staff***

The Uniform Guidance states; ”For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees contributing to the completion of Federal awards for research must be recognized in the application of these principles.” Staff in postdoctoral positions engaged in research, while not generally pursuing an additional degree, are expected to be actively engaged in their training and career development under their research appointments as Post-Docs. This dual role is critical in order to provide Post-Docs with sufficient experience and mentoring for them to successfully pursue independent careers in research and related fields. Does 200.400(f) require recognition of the dual role of postdoctoral staff appointed on research grants as, both trainees and employees, when appointed as a researcher on research grants?

Yes, the Uniform Guidance 200.400(f) requires the recognition of the dual role of all pre and post-doctoral staff, who are appointed to research positions with the intent that the research experience will further their training and support the development of skills critical to pursue careers as independent investigators or other related careers. Neither Pre-Docs or Post-Docs need to be specifically appointed in ‘training’ positions to require recognition of this dual role. The requirements and expectations of their appointment will support recognition of this dual role per 200.400(f).

***.400-3 (Previously Q III-3) Profit and Nonprofits***

How does the usage of the term “profit” in §200.400(g) apply, if at all, to Federal awards with or performed by nonprofit organizations?

• The guidance in section 200.400(g) states that the non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award (with a reference to §200.307 Program income).

• The guidance in 200.400(g) is intended only to make this long-standing requirement explicit for purposes of accountability and oversight. It has always been true that costs under Federal awards must be reasonable, allocable and allowable. By definition, this has always excluded any additional increment for profit beyond cost for non-Federal entities executing Federal awards or subawards.

**200.401**

***.401-1 Fixed Amount Awards and Cost Principles***

This section states that cost principles do not apply to capitation awards, scholarships, fellowships, traineeships, other fixed amounts, and fixed amount awards. However, section 200.400 states that cost principles must be used in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. Can you clarify the application of the cost principles to fixed-price and fixed-rate awards and subawards?

For fixed amount awards described in 200.400 and 200.401, the cost principles should be used as a guide when proposing (pricing) the work that will be performed, but are not formally used as compliance requirements for these types of awards. In other words, the recipient and the Federal agency, or the pass-through entity and the subrecipient, will use the principles along with historic information about the work to be performed to establish the amount that should be paid for the work to be performed. Once the price is established and the fixed amount award or subaward is issued, payments are based on achievement of milestones (e.g., per patient, per procedure, per assay, or per milestone) and not on the actual costs incurred.

**200.403**

***.403-1 Requirement for Compliance with Applicable Laws and Regulations \****

Section 200.403 does not specify a requirement for compliance with Federal, state, local, tribal, and other laws and regulations. Is this requirement otherwise addressed in the Uniform Guidance?

Yes. Compliance with applicable laws and regulations is included at Sections 200.303 Internal Controls. and 200.404 Reasonable costs.

**200.413**

***.413-1 What Counts as Prior Approval***

I have a Federal award that qualifies as a major project or activity and I’m directly charging administrative costs to it. When I receive incremental funding on my project next spring, I understand I am going to now need prior written approval from the Federal awarding agency to continue charging those costs to the new incremental funds. If I list my intention to continue charging those costs in my next continuation progress report and the Federal awarding agency issues my award without making any mention of my request, does that count as prior written approval?

It depends. Non-Federal entities should refer to the terms and conditions of their Federal award or address their questions to the Federal awarding agency awarding official (or pass-through entity if appropriate) to clarify when pre-approval has been granted.

**200.414**

***.414-1 De Minimis Rate and Governments***

Is the 10 percent de minimis rate for new organizations which have never negotiated an IDC rate at 200.414 (f) available to governmental organizations or tribal government entities which have never negotiated an IDC rate?

Yes. Provision of the 10 percent de minimis indirect cost rate is conditioned on the non-Federal entity meeting the requirements specified at 200.414 (f). These include limiting availability to organizations that have never received a negotiated indirect cost rate, except for those described in Appendix VII of Part 200, paragraph (D)(1)(b) ”governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal…” State and local government departments that have never negotiated indirect cost rates with the Federal government and receive less than $35 million in direct Federal funding per year may use the 10% de minimis indirect cost rate, and must keep the documentation of this decision on file. Federally recognized Indian tribes that have never negotiated an indirect cost rate with the Federal government may also use the 10% and must keep the documentation of this decision on file.

***.414-2 Indirect Cost Rate Extensions – “Current” and “one-time”***

Section 200.414(g) of the Uniform Guidance states: ”Any non-Federal entity that has a federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rates for a period of up to four years.”

• What is meant by the term “current negotiated indirect cost rates”?

• What is meant by the term “one-time”?

A current negotiated indirect cost rate is the negotiated rate in effect (i.e., not expired) when the non-Federal entity requests a rate extension. Rate extension requests will only be considered once in a rate negotiation cycle.

For example, a non-Federal entity with a current negotiated rate for 7/1/15-6/30/16 requests an extension of that rate for 3 years, until 6/30/19. If approved by the cognizant agency for indirect costs, the non-Federal entity is required to submit a proposal and request a negotiation of an indirect cost rate for the period beginning 7/1/19. Assuming these are predetermined rates effective until 6/30/23, the non-Federal entity could then request an extension of the current negotiated rate at the end of this approved period (6/30/23), prior to the submission of a proposal for negotiated rates in the next period. “Current negotiated rates” include only “predetermined” and “final” rates (not “provisional” or “fixed” rates).

***.414-3 Documentation Required for Extension***

Section 200.414(g) allows any non-Federal entity that has a federally negotiated indirect cost rate to apply for a one-time extension of its current negotiated indirect cost rates for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. Are there any documentation requirements that must be submitted? Are non-Federal entities eligible for multiple four-year extensions?

See FAQ .414-2. The intent of allowing for indirect cost rate extensions is to minimize the administrative burden for the non-Federal entity. As such, documentation requirements to support a four-year indirect cost rate extension should be kept to a minimum. A non-Federal entity can apply for a one-time extension (up to four years) on its most current negotiated rate. Subsequent one-time extensions (up to four years) are available if a renegotiation is completed between each extension request. Once there is a new negotiated indirect cost rate in effect, a non-Federal entity could request a one-time extension on that rate.

***.414-4 Timing of Request for Extension***

When should an institution contact the cognizant agency for indirect costs to request extension of their current negotiated rate?

Such requests should be submitted 60 days prior to the due date of the next proposal for indirect costs, but cognizant agencies for indirect costs can accept extension requests submitted later than that on a case by case basis.

***.414-5 Extensions and Fixed-Rates with Carry-Forward***

How might an organization with negotiated fixed rates with carry-forward effectively use the option for an extension of a current negotiated rate provided by 200.414(g)?

A fixed-rate with carry-forward agreement cannot be extended. If a non-Federal entity with a fixed-rate with carry-forward agreement would like to take advantage of the flexibilities in this provision of the Uniform Guidance, it would need to first negotiate a final or predetermined rate, which could then be extended, subject to the approval of the cognizant agency. The carry-forward for the last fixed year would have to be resolved in accordance with cognizant agency for indirect cost procedures.

***.414-6 (Previously Q IV-3) Extensions and Old Rates, Shorter Extensions***

Can an entity extend their rate for up to 4 years even if it’s a really old rate (say 10 years ago)? Can they only extend for 4 years? What about 3 years or 2 years?

• Uniform Guidance in section 200.414 states that any non-Federal entity with a federally negotiated indirect cost rate may apply for a one-time extension for a period of up to 4 years. The extension is subject to the review and approval of the cognizant agency for indirect costs.

• Requests for extensions may be for periods of less than 4 years. The extension period is subject to the review and approval of the cognizant agency for indirect costs.

***.414-7 Extensions of Final Rates\****

May a non-Federal entity apply for a one-time extension of federally negotiated indirect cost rates per section 200.414(g), when rates are based on the provisional/final indirect cost rate method?

Yes. The non-Federal entity must have a current federally negotiated final indirect cost rate to apply for an extension of indirect cost rates. If the final rates are based on the latest applicable audit and completed fiscal year under 2 CFR 200 (beginning on or after December 26, 2014), they are considered current for this purpose and may be used to apply for an extension. For example, if a non-Federal entity’s fiscal year is calendar, and rates are finalized based on the audit received by the end of September with the costs incurred through the previous December, the organization could apply for a one-time extension when submitting the final rate proposal for FYE December 31, 2015. In this example, the non-Federal entity can request an extension covering fiscal year(s) 2016 through 2019. Note, however, that Federal agencies may not approve rate extensions of final rates for any non-Federal entity that has cost reimbursement contracts. All one-time extensions of federally negotiated indirect cost rates are subject to the review and approval of the cognizant agency for indirect costs.

***.414-8 (Also applicable to 200.331) Federally negotiated indirect cost rates – voluntary under-charging or waiving IDC \****

Section 200.414(c) says “The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate…only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification.” For pass-through entities, FAQ .331-6 says “If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate.” However, some non-Federal entities voluntarily choose to not charge indirect costs for certain Federal programs or choose to charge less than their full negotiated rate, to allow a greater share of the Federal program funds to be used for the direct program costs. Can Federal awarding agencies and pass-through entities permit this practice when it is truly voluntary?

Yes. If a non-Federal entity receiving a direct Federal award or a subrecipient voluntarily chooses to waive indirect costs or charge less than the full indirect cost rate, Federal awarding agencies and pass-through entities can allow this. The decision must be made solely by the non-Federal entity or subrecipient that is eligible for IDC reimbursement, and must not be encouraged or coerced in any way by the Federal awarding agency or pass-through entity.

***.414-9 De Minimis Rate and Breaks in Federal Relationship \****

Our organization previously had a negotiated indirect cost rate. However, all federal awards expired causing a break in our relationship with the federal government. During the break in relationship our negotiated indirect cost rate expired. Our organization has now received a new federal award. Are we eligible to receive the 10 percent de minimis rate?

No. Organizations that experience a break in federal relationship are not eligible to receive the 10 percent de minimis rate upon receipt of a new award. The availability of the de minimis rate is specifically limited to a non-Federal entity that has never received a negotiated indirect cost rate (200.414(f)). It is expected that organizations that have experience developing and negotiating rates have adequate resources to develop a new indirect rates.

***.414-10 De Minimis Rate and Period of Applicability \****

If an organization elects the 10 percent de minimis rate at the beginning of an award, is the de minimis rate applicable to the period of performance of the award?

The de minimis rate may not be applicable during the entire period of performance of an award. A non-Federal entity may use the 10 percent de minimis rate indefinitely until it elects to negotiate an indirect cost rate, which the non-Federal entity may apply to do at any time. Indirect cost rates are generally negotiated based on a non-federal entity’s fiscal year (not the period of performance of an award). Therefore, the de minimis rate may not be applicable during the entire period of performance of an award.

Awarding agencies are not required to reissue awards issued prior to the effective date of the indirect cost negotiation agreement. Accordingly, the de minimis rate may be applicable to the period of performance of the award if the total award amount is known and made available to the organization at the time of award.

***.414-11 De Minimis Rate and non-Federal entity with Single Function \****

Can a non-Federal entity conducting a single function, which is predominately funded by Federal awards elect to charge the 10% de minimis rate if they currently charge all costs as direct costs to Federal programs?

No, the 10% de minimis rate must only be used to pay for overhead costs that are not directly charged to Federal awards. If all costs are charged directly to the Federal award (e.g., space costs, utility and administrative costs) then the recipient should not also charge the 10% de minimis rate. As described in 2 CFR section 200.403, costs must be consistently charged as either indirect or direct cost, but may not be doubled charged or inconsistently charged as both.

**200.415**

***.415-1 Authorization to Legally Bind the non-Federal entity***

This section requires certain financial reports and payment requests to be signed by someone who is “authorized to legally bind the non-Federal entity.” How should a non-Federal entity determine who has that authority?

It is up to the non-Federal entity to determine how best to establish the authority to legally bind the non-Federal entity.

**200.425**

***.425-1 Audits not Required in Accordance with Single Audit \****

Under Provisions for Selected Items of Costs Section 200.425(a) Audit services limits allowable costs for audit services to a proportionate share of the cost of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 as implemented under the Uniform Guidance. Would other audit costs, for example an internal audit division or legislative audit, be allowable?

Yes, internal audit costs of the non-Federal entity are allowable when they support the Single Audit process. Therefore, the cost of internal audit reviews of the non-Federal entity's internal control effectiveness and efficiency to assure ongoing compliance with the Uniform Guidance and the terms of Federal award are allowable under Section 200.425(a).

No, legislative audit costs, which are generally requested by the State government and not related to the Single Audit process, are not allowable.

***.425-2 Financial Statement Audit \****

Would a non-Federal entity that is required to have an audit conducted under the Single Audit Act and 2 CFR 200 Subpart F be able to allocate the cost for the entity’s financial statement audit as an allowable cost consistent with section 200.425(a)?

Yes. Section 200.514(b) requires that the Single Audit must include a determination of whether the financial statements of the auditee are presented in accordance with generally accepted accounting principles. Therefore, the costs of auditing the financial statements are allowable for non-Federal entities subject to the requirements of the Single Audit Act.

***.425-3 Performance Audits \****

State governments, and other non-Federal entities, perform audits that are not required by the Single Audit Act or Subpart F, such as Performance Audits. Are these costs allowable under the Uniform Guidance section 200.425(a)?

No. The costs of audits that are not required by the Single Audit Act or Uniform Guidance Subpart F are not allowable under section 200.425(a)

***.425-4 Financial Statement Audits by Entities Exempted from Single Audit and Subpart F \****

If a non-Federal entity is exempted from the requirements of the Single Audit Act and Subpart F, would it be permissible to charge the costs of a financial audit under section 200.425?

Yes. The costs of a financial statement audit, including those performed under GAGAS, by an entity exempted from the Single Audit Act, are not fully equivalent to audits conducted in accordance with the Single Audit Act Amendments of 1996. Accordingly, the costs of such financial statement audits are not prohibited by section 200.425 and inclusion of a proportionate share of the cost of these audits may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

***.425-5 Internal Audit Functions \****

Many non-Federal entities rely on internal audit functions, as a critical component of their program of internal controls, to assure compliance with the terms of awards as required under section 200.303 Internal controls. The costs of internal audit services are not specifically addressed in section 200.425. Are the costs of services of an internal audit function of a non-Federal entity an allowable cost under the Uniform Guidance?

Yes. Internal audit functions and its related costs are allowable. The costs must be appropriately allocated to the indirect cost pool in an indirect cost rate proposal or cost allocation plan.

**200.430**

***.430-1 Authorization of Changes to Time and Effort Systems***

Section 200.430(a) provides new guidance for the costs of salaries and wages. What processes do non-Federal entities need to follow to be authorized to change their current systems for documenting payroll charges? Can non-Federal entities make incremental changes that reduce burden but maintain the spirit of their current processes? For those institutions that are required to file a DS-2, what is the role of the DS-2 in this process?

Changes to the process through which payroll charges are documented are allowable and can be implemented when the non-Federal entity complies with the guidance in this section, including standards defined in paragraph .430(i) Standards for Documentation of Personnel Expenses. For non-Federal entities that disclose their current process in a DS-2, any change will require a corresponding change in the DS-2. In most cases, this simply means that the non-Federal entity would revise its current DS-2 and provide a high level summary of the processes that meet paragraph (i). The DS-2 should be comprehensive enough to document the non-Federal entity's accounting practices without further information. Non-Federal entities can develop solutions that meet the requirements in paragraph (i) and reduce the burden related to their current process whether they be incremental or more significant, including complete elimination of current systems.

***.430-2 Time and Effort and Tribes***

In paragraph 200.430(i)(5) regarding compensation for personal services, “For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph 200.430(i)(5)(1) if approved by the cognizant agency for indirect cost.” Please verify tribes will now be required to obtain approval from IBS due to the “If approved by cognizant agency for indirect cost”.

Yes. This is not a policy change.

**200.431**

***.431-1 Fringe Benefits and Indirect Costs \*\****

Will the COFAR consider deleting the requirement in sections 200.431(b)(3)(i) and 200.431(e)(3) that fringe benefits be charged as indirect costs when the non-Federal entity is using a cash basis of accounting?

Yes. Based on the COFAR’s recommendation, OMB issued a technical correction in December 2014 of the Uniform Guidance implementing regulations to delete the requirement that indirect costs be used to charge payments of unused leave, worker’s compensation, unemployment compensation, severance pay, and similar employee benefits.

***.431-2 Charging Payments of Unused Leave to Employees Terminating or Retiring \****

In accordance with section 200.431(b)(3)(i), can the state, local and Indian Tribal governments using the cash basis of accounting with unfunded/unrecorded leave liabilities charge unused leave (payments to employees that retire or are terminated) directly to Federal programs?

No. Charging all unused leave costs for separating employees in the same manner as it had charged the employees’ salary costs (i.e., directly to the activities on which the employees were working at the time of their separation) would result in inequitable distribution of the unused leave costs, because the leave costs were accumulated over the entire period of employment while working on various programs. In addition, having the last program bear the burden of these unbudgeted costs creates an unfair distribution of costs to this program. Therefore, any state, Local or Tribal government using the cash basis of accounting should allocate payments for unused leave, when an employee retires or terminates employment, in the year of payment as a general administrative expense to all activities of the governmental unit or component or, with the approval of the cognizant agency for indirect costs, the costs can be included in fringe benefit rates.

**200.436**

***.436-1 Depreciation and Cost Sharing***

Section 200.436(c)(3) states the following is excluded from the acquisition cost of the asset: “Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery.” This would suggest that the depreciation on the institutional/matching/cost sharing contributions to construction and major instrumentation is unallowable for recovery. FAQ .436-2 (previously IV-1) clarifies that this qualification is limited to instances of cost sharing or matching, but the language remains unclear, and could be interpreted inappropriately to reverse longstanding Federal policy allowing institutions to recover through their F&A rates their contributions to construction projects and instrumentation partially funded through Federal awards, unless prohibited by law or agreement. Is depreciation on the institutional contribution allowable, even in cases of cost sharing or matching?

Yes, depreciation on the institutional contribution is allowable, unless law or agreement prohibits recovery. Based on the COFAR’s recommendation, OMB will issue a technical correction to the Uniform Guidance to clarify.

***.436-2 (Previously Q IV-1) Depreciation and Cost Sharing***

Per 200.436(c)(3), the acquisition cost of depreciable assets will exclude: “Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery.” Is this qualification limited to instances of cost sharing or matching or does it apply more broadly?

Yes, this qualification is limited to instances of cost sharing or matching as described by 200.436(c) above it, from which it follows. 200.436(c) is copied here with emphasis in bold added: “(c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the non-Federal entity by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For this purpose, the acquisition cost will exclude: ...(3) Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery;”

**200.440**

***.440-1 Prior Approval for Fluctuations in Exchange Rates***

This section requires Federal awarding agency prior approval for fluctuations in exchange rates (for international projects). How can prior approval be obtained when the exchange rate may fluctuate on a daily basis as expenditures occur?

Prior approval is not required every time the exchange rate changes and a Federal award is charged. Approval of exchange rate fluctuations are required only when the change results in the need for additional Federal funding, or the increased costs results in the need to significantly reduce the scope of the project.

**200.444**

***.444-1 Salaries and wages for Tribal Councils***

In section 200.444 the guidance now includes language that up to 50% of the salaries and expenses for the tribal council can be included in the indirect cost calculation without documentation. Does this include the Chairman or equivalent?

Yes, provided these expenses are allocable to managing and operating Federal programs.

**200.449**

***.449-1 Interest Costs for Computer Software Development \****

For non-Federal entity fiscal years beginning on or after January 1, 2016, interest costs attributable to the portion of software development projects that are capitalized in accordance with GAAP are allowable (200.449(b)(2)). Does this mean that the interest costs will be allowed only for software development projects that are first capitalized in non-Federal entity fiscal years beginning on or after January 1, 2016?

Yes. Allowable interest costs for capitalized software development costs are limited to capital assets acquired on or after the non-Federal entity fiscal years beginning on or after January 1, 2016. This policy is consistent with prior transitions to allow interest expense (200.449(e) & (f)).

**200.458**

***.458-1 Pre-Award Costs***

I want to request pre-award spending in October 2014 for my award that will be funded soon after the Uniform Guidance goes into effect. How can I make sure the costs I incur will be allowed on my grant?

All pre-award spending is incurred at the non-Federal entity’s own risk, since the terms and conditions of the Federal award are not yet known. In the event that a non-Federal entity incurs a cost that subsequently is not allowed by that Federal awarding agency’s implementation plan, that cost must be removed unless the Federal awarding agency agrees in writing to grant a retroactive approval for that cost in that circumstance.

***.458-2 (Previously Q IV-2) Uncommitted Cost Sharing***

Uncommitted cost sharing is not discussed in the Uniform Guidance. Is the OMB Clarification of Uncommitted Cost Sharing in OMB M-01-06 dated January 5, 2001 still applicable?

• Yes. The OMB Clarification on uncommitted cost sharing is available here: http://www.whitehouse.gov/sites/default/files/omb/assets/omb/memoranda/m01-06.pdf