Focus:
Property and Procurement Standards

By Erin Fay and Carla Helm

With the current focus on effective stewardship of public monies, the federal government’s efforts to streamline guidance on administrative requirements, cost principles and audit requirements for federal awards in the form of the new Uniform Guidance will result in some improvements that benefit academic research. However, the new property and procurement requirements in the Guidance may place unintentional, additional burdens on researchers and administrators. It will be important to work collaboratively with COFAR to clarify these areas of concern and to bring the Property and Procurement professionals on your campus into the conversation promptly.

A guiding principle of the new Uniform Guidance is the focus on performance in addition to accountability. In support of this principle, the Property and Procurement Standards sections of the Guidance recommend, or in some cases, require the use of recognized best practices. The new Guidance has been derived largely from OMB Circular A-110 or Circular A-102. The discussion below focuses on those areas of the Guidance which are requirements. Requirements are indicated in the Guidance by the use of the term “must,” whereas the term “should” is used when the guidance is recommended, but not required.

Although the Guidance is based on established best practices, and much of it is carried forward from the former Circular A-110, some concerns exist. The rules in Circular A-110 were less prescriptive, therefore the new rules may require additional effort on the part of the entity if existing processes don’t match the new requirements, and some may require system changes in addition to procedural changes.

Several highlights of the new Guidance, either new or changed from the previous rules in A-110, are discussed below.

Property Standards

Real Property (200.31)

This section explicitly states that title will vest upon acquisition in the non-Federal entity ((a) Title)) and that property only be used for its original purpose unless permission is provided (200 Use). Language was also added allowing net proceeds from disposition to be used as an offset to the cost of the replacement property ((c)(1)), if the original property is acquired with the same award as the replacement property.

Federally-Owned and Exempt Property (209.312)

This section had one significant wording change (c) and now states that “Absent statutory authority and specific terms and conditions of the Federal award, title to exempt federally-owned property acquired under the Federal award remain with the Federal government.” Previously, A-110 stated that “Should a Federal awarding agency not establish conditions title to the exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.”

Equipment (200.313)

This section, arguably, had the most change of the Property Standards. The following new or subtle changes in terminology between the old A-110, section .34 and the new Uniform Guidance have caught the attention of the university community, Council on Governmental Relations (COGR) and Federal Demonstration Partnership (FDP). We hope for additional clarification regarding these items via a COFAR clarification or FAQ:

The term “conditional title” has been added to section (a) Title. It now states “Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity (a) Title)) and unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal government, the Federal agency elects to do so, the title must be a conditional title.” It is unclear at this point if this is a new term that has new meaning or if it is a term that has always been effective, just not explicitly used in A-110.
Section (d) management requirements added that property records include the Federal Award Identification Number (FAIN). Uniform Guidance now states “Property records must include...the source of funding for the property (including the Federal award identification number - FAIN).” This wording change has the potential to require institutions to make changes to their inventory systems to capture this data.

Section (d) also had a minor wording change that also in unclear to its meaning. “Property records must include...description of the property” is slightly different from the previous A-110 language that simply stated “Information from which this one can calculate the percentage of Federal participation is the cost of the equipment...” If percentage is required to be housed in property records, institutions may have to make changes to their inventory systems to calculate and capture that percentage systematically.

Section (d) (1) now states that property records must include “use and condition of the property.” The “use” component is new and may require institutions to make systems changes to comply, depending on how “use” is defined.

Additional changes to this section include the addition of the term “vest upon acquisition” and three specific conditions:

1. Use the equipment for the authorized purposes of the project until funding ceases, or until no longer needed for purposes of the project.
2. Not encumber the property without approval of the awarding agency or pass-through entity.
3. Use and dispose of the property in accordance with paragraphs (b), (c), and (e) of this section.

Section (b) also had the addition of “A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.”

Section (e) (1) provides clarification by stating “equipment with a FMV $5,000 or less may be retained, sold or otherwise disposed of with no further obligation” and (e) (4) adds clarifying language stating “in cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.”
guidance after-the-fact validation that the labor distribution is accurate, allowable and properly allocated is still required. Personnel charges that are not confirmed through the use of time cards must still be based on a percentage distribution of total institutional Base Salary i.e. "effort". This section provides clarification and flexibility for when protocol related costs are allowable as direct costs.

- §200.432 Conferences Dependent care during conferences associated with dissemination of research results are allowable as a direct cost but must be treated consistently across all funding sources.

- §200.440 Exchange rates Prizes agency approvals required for cost increases resulting from fluctuations in exchange rates.

- §200.453 Materials and supplies costs including materials of computing devices. Computing devices as defined in §200.75 are allowable as direct costs provided essential and allocable but not solely dedicated to the performance of the project.

- §200.461 Publication and printing costs. Publication costs for work supported by the Federal government are allowable after the award end date but prior to closeout (See §200.433 Closeout).

- §200.466 Participant support costs. These costs are allowable with prior approval but as defined in §200.75, are limited, to exclusion from MTDC to conference and training grants.

The Council on Governmental Relations (COGR) has taken on the monumental task of reviewing the Uniform Guidance and has issued its COGR Guide to the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Periodic updates will be made as COGR's ongoing dialogue with OMB and the Federal agencies, and OMB's additions to its Frequently Asked Questions (FAQs) render clarity. The COGR Guide to the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards provides a space for researchers to gather data or pursue pilot demonstrations that might provide substantive evidence of the impact on administrative burden for researchers. Readers are encouraged to seek guidance from both COGR and FDP through its public websites.

Dr. Susan Sedwick, Associate Vice President for Research and Director of Sponsored Projects at the University of Texas at Austin. She can be reached at sedwick@austin.utexas.edu.