



2 CFR Part 200 Training



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This training is offered by the U.S. Department of Housing and Urban Development (HUD) and the Office of Native American Programs under a cooperative agreement with the National American Indian Housing Council (NAIHC).



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Instructor



William Guevara
Consulting Services
Have Compass, Will Travel

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BIO

William Guevara, formerly a Director of Training and Technical Assistance for First Nations Oweesta Corporation (Oweesta) and an Executive Director for several Tribal Housing Authorities, has 21 years of experience working in Native American communities throughout the United States including Alaska and Hawaii. He has served on Native Community Development Financial Institutions (CDFIs) boards. Additionally, he is a licensed general building contractor, real estate broker, and a former certified loan originator for the HUD Section 184 Indian Home Loan program. Currently he is a Trainer and Technical Assistance provider to Native Communities.

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Uniform Guidance: What is it?

Code of Federal Regulations: 2 CFR Part 200

Title 2: Grants and Agreements



PART 200— "UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS"

- Now commonly referred to as the "Uniform Guidance" for Federal Awards (2 CFR Part 200).
- Replaces, consolidates and streamlines eight Federal regulations into a single guide
- Applies to all Federal grants and to certain other types of Federal awards

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Course Objectives

- ✓ Provide an overview of the administrative and financial management requirements for the Indian Housing Block Grant pursuant to NAHASDA and the Uniform Guidance
- ✓ Learn how to research guidance for NAHASDA and the Uniform Guidance
- ✓ Provide guidance on applying the Uniform Guidance to IHBG
- ✓ Review tools to assist recipients in complying with IHBG requirements
- ✓ Identify Best Practices for compliance with the requirements

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Agenda

1. Introduction
2. Background and Implementation Timeline
3. Navigating the Uniform Guidance
4. Acronyms, Definitions, General/Pre-Award Requirements
5. Reporting and Monitoring; Record Retention
6. Procurement Standards
7. Standards for Financial and Program Management
8. Cost Principals
9. Audit Requirements
10. Wrap Up

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75% reduction in printed paper cost!

- **A-21** Cost Principles for Educational Institutions
- **A-87** Cost Principles for State, Local and Indian Tribal Governments
- **A-122** Cost Principles for Non-Profit Organizations
- **A-110** Uniform Administrative Requirements for Grants and Other Agreements
- **A-102** Grants and Cooperative Agreements With State and Local Governments (Part 85)
- **A-133** Audits of States, Local Governments and Non-Profit Organizations
- **A-50** Audit Follow up
- **A-89** Federal Domestic Assistance

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The Uniform Guidance: History

<p>February 28, 2011 Presidential Memorandum: <i>Administrative Flexibility</i></p>	<p>February 1, 2013 Notice of Proposed Guidance (NPG)</p>	<p>December 26, 2014 Uniform Guidance adopted & implemented by all agencies</p>	
<p>October 27, 2011 Creation of Council on Financial Assistance Reform (COFAR)</p>	<p>February 28, 2012 Advanced Notice of Proposed Guidance (ANPG)</p>	<p>December 26, 2013 Issuance of Final Guidance (2 CFR 200)</p>	<p>December 7, 2015 HUD issues Conforming Amendments & Final Rule</p>

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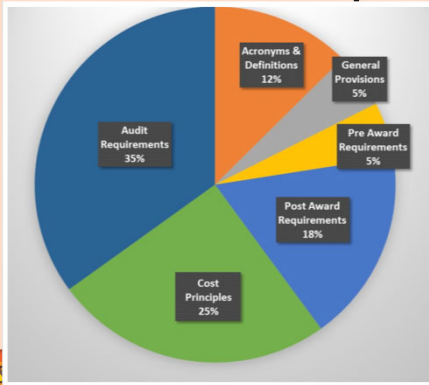
Appendix List

- I. Full Text Of Notice Of Funding Opportunity
- II. Contract Provisions For Non-federal Entity Contracts
- III. Indirect Costs Identification And Assignment For IHEs
- IV. Indirect Cost Identification And Assignment For Nonprofits
- V. State/Local Government Cost Allocation Plans
- VI. Public Assistance Cost Allocation Plans
- VII. State/Local Government Indirect Cost Proposals
- VIII. Nonprofit Organizations Exempted From Subpart E
- IX. Hospital Cost Principles
- X. Data Collection Form
- XI. Compliance Supplement
- XII. Award Term And Condition For Recipient Integrity And Performance Matters

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Uniform Guidance Emphasis



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Acronyms, Definitions, and General Provisions

Subpart A §200.0 - .99 and
Subpart B §200.100 - .113

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§ 200.00-200.99
Subpart A—Acronyms And Definitions

- Definitions And Acronyms For Key Terms Found Throughout The Document
- Definitions And Acronyms May Vary For Other Purposes And Programs Than Those Used For The UG
- Use Of “Should” Vs. “Must”
 - “Should” Means Best Practices Or Recommended Approaches
 - “Must” Means IT IS REQUIRED

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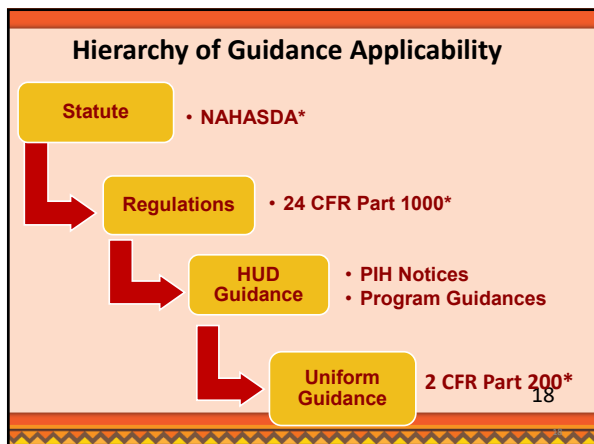
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§ 200.100
Subpart B: Purpose

- Establishes Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards To Non-federal Entities
- Agencies Must Not Impose Additional Or Inconsistent Requirements

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Rules For Applying Guidance

1. Program Specific Requirements are followed when provided.
2. For IHBG, Program Specific Requirements are generally not duplicated.
3. To understand program requirements research of the statute, regulations, PIH notices and program notices is necessary.
4. Uniform Guidance is followed when program specific requirements are not provided.

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§ 200.102

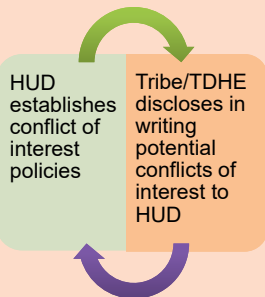
Exceptions

- Agency may apply more restrictive requirements to class of awards:
 - when approved by OMB, or when,
 - required by Federal statutes or regulations,
 - except for the requirements in Subpart F—Audit Requirements of this part
- Case-by-case basis, OMB will approve innovative program designs

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§ 200.112 Conflict Of Interest



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§ 200.113

Mandatory Disclosures

- Violations of Federal criminal law potentially affecting Federal award must be reported to HUD or pass-through entity (timely and in writing)
 - Fraud
 - Bribery
 - Gratuity violations

Program Specific Requirement for Monitoring,
Oversight and Accountability of IHBG

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§ 200.113

Mandatory Disclosures (Cont'd)

- If the total value of currently active grants exceeds \$10 million for any period of time recipients are required to provide information in SAM pursuant to Appendix XII: *Award Term and Condition for Recipient Integrity and Performance Matters*
 - Must report currency of information on System for Award Management (SAM)
 - Made available to the public on the Federal Awardee Performance and Integrity Information System (FAPIIS)

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Evaluate policies and procedures to ensure conflict of interest and disclosure requirements are incorporated and staff are trained on these requirements.

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Evaluate whether or not the recipient has a management system (board policy and/or personnel policy) to ensure information pertaining to violations of federal criminal law involving fraud, bribery, or gratuity violations are collected and disclosed to HUD in a timely

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Pre-Federal Award Requirements and Contents of Federal Awards

Subpart C Part 200.200 – 213

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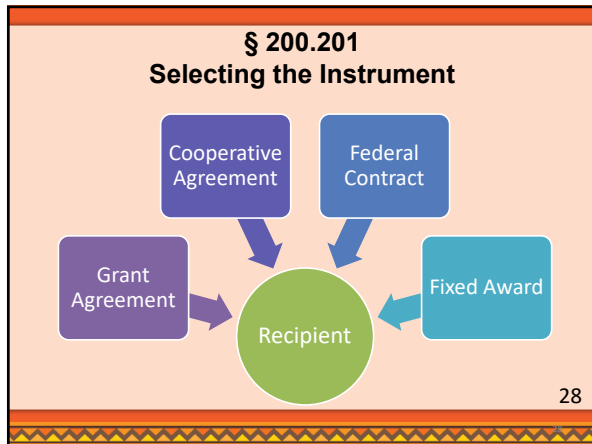
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§ 200.200 – 213 Federal Awarding Agency Responsibilities

- This section of the uniform guidance applies to the federal agencies' and pass-through entities' responsibilities
- Responsibilities for providing instructions and required documents (including certifications) that is required for federal awards.

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§200.205 Federal Agency Review Of Risk

Prior to an award, the federal agency must assess risk including:

1. Financial stability
2. Quality of management systems
3. History of performance
4. Reports and finding
5. Ability to operate in compliance with requirements

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§ 200.207 Specific Conditions

(a) ...Federal awarding agency or pass-through entity may impose additional specific award conditions as needed, based on review of risk per §200.205

➔

(b) Additional award conditions may include:

- Withholding authority to proceed to the next phase pending evidence of acceptable performance
- Requiring additional reporting
- Additional monitoring
- Requiring technical or management assistance

(c) Federal Agency must notify the non-Federal entity as to the nature and reason for the additional conditions.

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Post-Federal Award Requirements: Standards for Financial and Program Management

Subpart D Part 200.300 – 316

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§ 200.300 (A) & (B) Statutory & National Policy Requirements

FEDERAL AGENCY

- Manage & administer the federal award
- Ensure implemented in full accordance with US statutory and public policy requirements.
- Communicate to the non-federal entity all relevant public policy requirements – include/refer in the terms and conditions of the award.

NON-FEDERAL ENTITY

- Comply with all requirements of the federal award, and includes
 - Must have universal identifier (DUNS number). Here's my first try
 - Must register in System of Award Management (SAM).
 - If applicable, federal prime awardees (prime contractors and prime grant recipients) must submit a FFATA – Federal Funding Accountability and Transparency Act report on their first tier subawards & executive compensation.

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§ 200.301 Performance Measurement

- Federal Agency must require:
 - Recipients to relate financial data to performance accomplishments and demonstrate cost effectiveness
 - Data is measured in way to help improve program outcomes, share lessons learned, and spread the adoption of promising practices

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§ 200.302(b)(1)

Financial Management

The non-federal entity is required to establish and maintain a financial management system that demonstrates it is able to identify, in its accounts:

- All federal awards received and expended and the federal programs under which they were received.
- Federal program and federal award identification must include:
 - Federal program
 - CFDA (Catalog of Federal Domestic Assistance) title and number
 - Federal award identification number and year
 - Name of the federal agency
 - Name of the pass-through entity, if any.


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§ 200.302(b)(1) Cont'd

Financial Management

....Identify in its accounts, all federal awards received and expended.



Federal Agency	Department of Housing and Urban Development, Office of Native American Programs (HUD/ONAP)
Federal Program	Native American Housing Assistance and Self Determination Act (NAHASDA)
CFDA Title	Indian Housing Block Grant (IHBG)
CFDA Number	14.867
Award Number	55-IH-02-0123-0
Award Year	FY2019

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§ 200.302(b)(2)

Financial Management

- Accurate, current, and complete disclosure of the financial results (SF 425) of each federal award or program in accordance with monitoring and reporting requirements in §200.327 & §200.328.
- If a federal awarding agency or pass-through entity requires reporting on an accrual basis:
 - the recipient must not be required to establish an accrual accounting system.
 - this recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand.

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§ 200.302(b)(3)
Financial Management

Records must adequately identify the source and application of funds and must contain information below:

- Authorized Amount
- Obligations
- Unobligated Balance
- Assets
- Expenditures
- Income, And
- Interest

} Must by supported by source documentation

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§ 200.302(b)(4-5)
Financial Management

MUST:

(4) provide for effective control over, and accountability for, all funds, property, and other assets. The non-federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.

(5) be able to compare expenditures with budget amounts for each federal award.

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§ 200.302(b)(6-7)
Financial Management

(6) Must have written procedures to implement the requirements of §200.305 payment.

(7) Must have procedures for determining the allowability of costs in accordance with subpart e— cost principles of this part and the terms and conditions of the federal award.

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§ 200.303(a)
Internal Controls

A non-federal entity **must** establish and maintain effective internal controls over the federal award providing *reasonable assurance* it is being managed in compliance with statutes, regulations, and terms of award.

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§ 200.303(a)
Internal Controls, Cont'd

Internal controls **SHOULD** be in compliance with guidance in:

- The “**Standards for Internal Control in the Federal Government**” issued by the comptroller general of the united states [THE GREEN BOOK];
OR
- The “**Internal Control Integrated Framework**”, issued by the Committee Of Sponsoring Organizations of the Treadway Commission [COSO].

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§ 200.303 (b-e)
Internal Controls

A non-Federal entity **MUST**:

- B. Comply with federal statutes, regulations, and the terms and conditions of the federal awards.
- C. Evaluate and monitor the non-federal entity's compliance with statute, regulations and the terms and conditions of federal awards.
- D. Take prompt action when noncompliance identified.
- E. Take reasonable measures to safeguard protected personally identifiable or sensitive information.

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Determine Adequacy Of Internal Controls	
Control Environment Tone at the top – provides discipline and structure	• Management sets reasonable budgets; identifies allowable expenditures. Board or Council approves.
Risk Assessment Identify and how to manage risk	• Managers and staff are required to use the written policies and procedures as guidance to identify allowable or unallowable costs.
Information and Communication System	• Department managers compare monthly budget and actual expenditures to review for accuracy and initiate corrections, if needed.
Control Activities Ensures management directives are carried out	• Managers follow established written procedures for authorization and approval of purchases based on approved budget, prior to purchase.
Monitoring Assess quality of internal controls	• Accounting provides financial reports to managers for monthly review; includes the reports to the Board.

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§ 200.304 Bonds

The federal awarding agency may include a provision on bonding, insurance or both in the following circumstances:

- If the federal government is the guarantor
- Or insures the repayment of money borrowed by the recipient, if the bonding and insurance requirements of the non-federal entity are not deemed adequate to protect the interest of the federal government.

EXAMPLES:

- SECTION 184 LOAN GUARANTEE AND
- TITLE VI LOAN GUARANTEE PROGRAM

- the federal agency may require fidelity bond where the non-federal entity lacks sufficient coverage to protect the government's interest.

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§ 200.305 Payments

Section 200.305, "payment," applies, except that HUD shall not require a recipient to expend retained program income before drawing down or expending IHBG funds.

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§ 200.305(b) Payments

Payments methods **must minimize time elapsing between the transfer of fund:**

- From the U.S Treasury or the pass-through entity and the disbursement by the non-federal entity, *and applies*
- Whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means

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§ 200.305(b) Payments

Payments Methods applicable to the NAHASDA Program:

- Advance Method (1-2)
- Reimbursement Method (3)

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§ 200.305(b)(1&2) Payments

Conditions for Advance Payments:

- The non-federal entity has **written procedures** that minimize the time between the transfer of funds and disbursement, and
- Has a financial management system that meets 200.302(b).

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§ 200.305(b)(1&2), Payments

ADVANCE PAYMENTS:

- Limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash needed.
- Timing and amount must be as close as is administratively feasible to the actual disbursements.
- Must be consolidated to cover anticipated cash needs for all federal awards made by the federal awarding agency to the recipient.
- **When electronic fund transfers are not used**, non-federal entities are authorized to submit requests for advance payments and reimbursements at least monthly.

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**§ 200.305(b)(3)
Payments**

REIMBURSEMENT PAYMENTS is the preferred method when:

1. the requirements in paragraph 200.305(b) **cannot** be met.
2. when the federal awarding agency sets a specific condition per §200.207.
3. or, when the non-federal entity requests payment by reimbursement.


Note: federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing.

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**§ 200.305(b)(5)
Payments**

(5) ... the non-federal entity must disburse funds available from **program income** ... before requesting additional cash payments.



Does not apply to IHBG, per program specific requirement of 24 CFR 1000.26(a)(3). HUD shall not require a recipient to expend retained program income before drawing down or expending IHBG funds.

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§ 200.305(b)(6)

Payments

Conditions under which payment to a non-federal entity may be withheld:

- failure to comply with the project objectives, federal statutes, regulations, or the terms and conditions of the federal award.
- delinquent in a debt to the united states.
 - *funds would be released upon subsequent compliance.*
- where contractor intends to withhold payment to contractors to assure satisfactory completion of work.

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§ 200.305(b)(7)

Payments

Standards governing the use of banks and other institutions as depositories:

- awarding agency must not require separate depository accounts or establish eligibility requirements for depositories
 - however, the non-federal entity must be able to account for the receipt, obligation and expenditure of funds
- advance payments must be placed in insured accounts, whenever possible

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§ 200.305(b)(8)

Payments

AND, advance payments **must** be in interest-bearing accounts unless:

- total federal awards for year are less than \$120,000, or
- anticipated interest earnings are less than \$500 per year, or
- minimum balance requirements of bank make it not feasible

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§ 200.305(b)(9)
Payments

- Interest up to \$500 per year can be retained for administrative expense.
- Any additional interest earned on federal advance payments deposited in interest-bearing accounts must be remitted annually to the department of health and human services Payment Management System (PMS).

NOTE: Does not apply to IHBG recipients who have been approved to invest IHBG funds per 24 CFR § 1000.58

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§ 200.309
Period of Performance

A non-federal entity may charge to the federal award only allowable costs:


- incurred during the period of performance.
- and any costs incurred before the federal awarding agency or pass-through entity made that were authorized by the federal awarding agency or pass-through entity.

IHBG Period of Performance:

- Prior to FY2012: No set period of performance. May be used until expended.
- After FY2012: Must be expended by September 30 of the 9th year of the appropriation. For example: FY2020 grant must be expended by September 30, 2029.

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Payments

Adopt written procedures on payments and include:

- relevant provisions of 200.305(b) payments.
- incorporate timing of advance payments from LOCCS to actual disbursement of the funds to within three days.
- remember that the use of program income first does not apply with NAHASDA.
- if you are a pass-through entity, assess the financial management standards you require of subrecipients to ensure you do not require them to establish separate depository accounts when they have sufficient accounting systems to account for the receipt, obligation and expenditure of funds.

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**Post-Federal Award
Requirements: *Property
Standards***

Subpart D Part 200.310 – 316

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§ 200.311

Real Property

DOES NOT APPLY per 24 CFR §1000.26(a)(7), *except as provided in 24 CFR §5.109.*

...Outlines HUD's policy for the equal participation of religious organizations in HUD's programs and activities:

- HUD funds may not be used for programs, or for the acquisition, construction, or rehabilitation of structures to the extent that those programs or structures are used for *inherently religious activities*.
- However, if used for both - requires cost accounting to separate cost attributable only to eligible program activity.

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§ 200.312

**Federally-owned And Exempt
Property**

Use of IHBG funds do not result in Federal ownership and is therefore not applicable to IHBG recipients.

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**§ 200.313
Equipment**

Section 200.313 applies to IHBG, except in all cases in which the equipment is sold, the proceeds shall be program income.

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**§ 200.313(a)
Equipment**

Unless otherwise provided by a statute,

- title must vest as a “conditional title” to the non-federal entity subject to the following conditions:
 - use the equipment only for the authorized purposes...in period of performance, or until the property is no longer needed for the purposes of the project.
 - not encumber the property without (HUD) approval.
 - follow use and disposition requirements of paragraphs (c) and (e) of this section.

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**§ 200.313 (c)(1)
Equipment**

Order of priority for equipment use when the equipment is no longer needed for original program/project:

- i. Activities under a federal award from the federal awarding agency which funded the original program or project (e.g. another HUD funded program).
- ii. Activities under federal awards from other federal awarding agencies.

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§ 200.313(c)
Equipment

Equipment/property management policies to include:

- Conditional title conditions in this section.
- Priority use language if this provision is used.
- Depending on anticipated use of equipment by other federal programs or non-federally funded programs, develop appropriate use fees for use.

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§ 200.314
Supplies

Applies to IHBG program, except for specific requirements for:
IHBG at §1000.26(a)(9)**except in all cases in which the supplies are sold, the proceeds shall be PROGRAM INCOME.**

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§ 200.314(a)
Supplies

Title to supplies will vest in the non-federal entity upon acquisition.

- if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of **the project or program** and the supplies are not needed for any other federal award, the non-federal entity:
 - must retain the supplies for use on other activities, or
 - sell them, and proceeds shall be program income.

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§ 200.314 Supplies

Equipment/property management policies to:

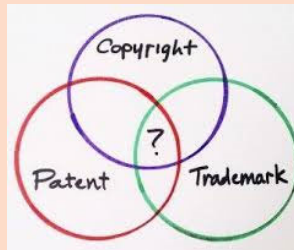
- Emphasize that NAHASDA is a program and therefore, any unused inventory of supplies purchased with IHBG funds for a project(s) must be retained for use in other projects.
- Identify conditions under which sale of unused supplies is necessary, and provisions to specify proceeds for the sale of equipment and supplies are accounted for as program income.

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§ 200.315 Intangible Property

- Applies, but has little or no impact to IHBG programs
- More relevant to IHEs under research grants



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Post-Federal Award Requirements: *Procurement Standards*

SUBPART D PART 200.317 – 326

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Procurement "Claw" (Sections 200.317-326)

General Standards:
 A. Policies & Procedures
 B. Reasonable & Necessary
 C. Full & Open Competition
 D. Conflict of Interest
 E. Documentation
 I. Cost & Price Analysis
 II. Contractor Selection

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**§ 200.318
General Standards**

- Documented procurement **procedures** required
- Must conform to federal, state, local, tribal laws and regulations

Policies & Procedures

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**§ 200.318 Cont'd
General Standards**

Written Standards of Conduct Required

- No employee, officer, or agent may participate in the selection, award, or administration of a contract if there is a real or apparent conflict of interest.
- Conflict of interest: when the employee, officer, or agent, or a member of his/her immediate family, has a financial or other interest in, or a tangible personal benefit from a firm considered for a contract. [also §1000.30 (a) for IHBG]
- Must maintain written standards of conduct with respect to organizational conflict of interest with parent, affiliate or subsidiary organizations

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Develop procurement procedures which will be followed by the recipient to ensure compliance with applicable State, local, Tribal and Federal requirements.

§ 200.318(j)

General Standards

Time and materials contracts: a contract whose cost to a non-federal entity is the sum of:

- the actual cost of the materials; and
- direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses and profit.
- Allowable if no other contract is suitable and a ceiling price is established.
- T&M contracts provide no positive profit incentive to the contractor for cost control or labor efficiency **therefore each contract must set a ceiling price that the contractor exceeds at its own risk.**
- Requires a high degree of oversight by the non-federal entity.



- Review Recipient's "Standards of Conduct" policies and update as necessary governing selection, award, and administration of contracts.
- Determine if the recipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe. If so, expand policy to address Standards of Conduct pertaining to organizational conflicts.

**§ 200.319
Competition**



Contractors who are involved in drafting specifications, statements of work, Request for Proposals (RFPs) or Invitation for Bids (IFBs) must be excluded from competing in order to eliminate unfair competitive advantage.

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**§ 200.319
Competition**

All procurement transaction must be conducted in a manner providing full and open competition

- No overly restrictive requirements allowed
- Must allow "an equal" product if "brand name" is specified
- No state, local or tribal geographical preferences unless mandated or encouraged by statute
- Written procedures required to ensure clear and accurate description of the minimum technical requirements
- Prequalified lists must be kept current

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Procurement Policy Amendments:



- Require Time and Materials contracts to include a ceiling price and assert a high degree of oversight.
- Contractors who are involved in the development of the procurement documents must be excluded from competing for such procurements.

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2 CFR 200.320 Procurement Methods

- Micro Purchases
 - Under \$10,000
 - No quotes necessary
 - Cost must be reasonable
- Small Purchases
 - IFB
 - \$10,000 to \$250,000
 - Award to lowest responsive and responsible bidder
 - Minimum 2 quotes
- Sealed Bidding
 - IFB
 - \$250,00 and above
 - Award to lowest responsive and responsible bidder
 - Minimum 2 quotes
- Competitive Proposals
 - RFP
 - Most advantageous proposal
- Non-competitive
 - Emergency
 - Sole Source
 - HUD approval
 - Lack of competition

Recipients must follow their Procurement Policy

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Office of Native American Programs
Office of Public & Indian Housing

No. 2019-03-A
November 26, 2019

PROGRAM GUIDANCE

PROGRAM: All Programs of the Office of Native American Programs

FOR: Tribal Government Leaders and Tribally Designated Housing Entities (TDHEs)

FROM: Gary Nemeec, Director, Office of Grants Evaluation

FROM: Hillary Atkin, Director, Office of Grants Management

FROM: Nicholas Zolrkowski, Acting Director, Office of Field Operations

TOPIC: Recent Changes to the Federal Micro-Purchase and Simplified Acquisition Thresholds

PURPOSE: This guidance informs Indian tribes and Tribally Designated Housing Entities about increases to the micro-purchase and simplified acquisition thresholds for programs involving Federal funds.

BACKGROUND: On December 12, 2017, the National Defense Authorization Act for Fiscal Year 2018, (Public Law 115-91), was signed into law. The Act raised the Federal micro-purchase threshold from \$3,500 to \$10,000. It also raised the simplified acquisition threshold to \$250,000.

Initially, these changes were not to become effective until the Federal Acquisition Regulation was revised. However, on June 20, 2018, the Office of Management and Budget issued a Memorandum (M-18-18) to Federal agencies that granted an exception and allowed all grant recipients to benefit from these higher micro-purchase and simplified

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2 CFR 200.320 (a) Micro-Purchases

- Applies to all purchases below established threshold of \$10,000 when available at a reasonable cost
- Documented with an authorized purchase order or other formal method
- Purchases can not be broken into smaller transactions to meet the micro-purchase threshold
- To the extent practicable, the non-federal entity must distribute micro-purchases equitably among qualified suppliers



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§ 200.323
Contract Cost And Price

- Profit must be negotiated as a separate element when there is no price competition and in all cases where a cost analysis is performed
- “Cost plus a percentage of cost” method must not be used
- Must make an independent estimate before receiving bids or proposals

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§ 200.325
Bonding Requirements

- The federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity, assuring federal interest is adequately protected.
- If not, minimum requirements must be followed:
 - a. bid guarantee from each bidder; up to 5% of the bid price.
 - b. performance bond (contractor); 100% of the contract price.
 - c. payment bond (contractor); 100% of the contract price.

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§1000.26(a)(12) Bonding Requirements
Program Specific Requirement

Where circumstances under which the bonding requirements of 2 CFR §200.325 are inconsistent with other responsibilities and obligations of the recipient, acceptable methods to provide performance and payment assurance may include:

- i. Deposit with the recipient of a cash escrow of not less than 20 percent of the total contract price...
- ii. Letter of credit for 25 percent of the total contract price...
- iii. Letter of credit for 10 percent of the total contract price...

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§ 200.326
Contract Provisions

APPENDIX II OF 2 CFR PART 200

– Lists 10 contract provisions that are to be included in contracts when required based on prescribed circumstances such as value and other criteria

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§ 200.326
Contract Provisions

Appendix II Of 2 CFR Part 200

Thresholds To Trigger Requirement For:

(C) Equal Opportunity Clause

- All Contracts That Meet The Definition Of “Federally Assisted Construction Contract.”

(E) Contract Work Hours And Safety Standards Act

- Threshold Is \$100,000

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§ 200.326
Contract Provisions (Cont.)

Appendix II of 2 CFR Part 200

Threshold To Trigger Requirement For:

(G) Clean Air Act

- \$150,000

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§ 200.326
Contract Provisions (Cont'd)

§ 200.326 [Appendix II (I)], Byrd Anti-lobbying Amendment:
Contractors That Apply Or Bid For An Award Of \$100,000 Or More Must File The Required Certification At Each Tier:

- No Federal Appropriated Funds Have Been Used To Influence Grant Award Outcome (Persons, Organizations, Or Any Member Of Congress)
- Must Disclose Any Lobbying With Non-federal Funds That Takes Place In Connection With Obtaining Any Federal Award
- Such Disclosures Are Forwarded From Tier To Tier Up To The Non-federal Award

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Indian Preference:

- Determine how to provide Indian Preference for contracting, employment and training to the greatest extent
- Incorporate Indian Preference implementation determination in policies and procedures.
- Provide training to staff and contractors, subcontractors and subrecipients.

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- Update recipient's contract forms and policy to comply with Contract Provisions per Appendix II of the Uniform Guidance.
- Provide staff training on current Contract Provisions requirements per Appendix II of the Uniform Guidance.

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Sample Procurement Policy



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**Post-Federal Award
Requirements: *Performance And
Financial Monitoring And
Reporting***

SUBPART D PART 200.327 – 345

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**§ 200.327
Financial Reporting**



- Only OMB approved data may be solicited for collection of financial information
- Reporting frequency is established by the federal award:
 - must be at least annually
 - no more than quarterly except in unusual circumstances

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§ 200.328
**Monitoring And Reporting
 Program Performance**

Applies → 200.328 (a)... non-Federal entity must monitor its activities under Federal awards

The following do not apply to IHBG:

- 200.328(b): Non-construction performance report
- 200.328(c): Construction performance reports
- 200.328(d): Significant developments
- 200.328(f): Federal waiver on performance report


Applies → 200.328 (e) ...the Federal awarding agency may make site visits as warranted by program needs

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§ 200.329
Reporting On Real Property

Not applicable to ONAP Programs since property acquired through the use of federal grant funds is not federal property.



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§ 200.330
**Subrecipient And Contractor
 Determinations**

- A non-Federal entity may concurrently receive Federal awards as a recipient, subrecipient and a contractor
- A recipient must make a case-by-case determination whether each agreement it makes casts the party receiving the funds in the role of a subrecipient or contractor
- The Federal agency may require recipient to comply with additional guidance to support these determinations

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§ 200.330
Subrecipient And Contractor
Determinations

“...must make a case-by-case determination whether each agreement it makes casts the party receiving the funds in the role of a subrecipient or contractor”

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§ 200.330(a)
Subrecipient Determinations

•Purpose of Subaward
–“a subaward is for the purpose of carrying out a portion of the federal award.”

•§ 200.92 Subaward Definition
–**Subaward** means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. it does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

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§ 200.330(a)
Subrecipient Determinations

Characteristics of subaward:

1. Determines who is eligible
2. Performance is related to objectives of a federal program
3. Responsible for programmatic decision making
4. Responsible for compliance with federal program requirements
5. Uses funds for a public purpose per the program rather than providing goods or services

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§ 200.330(b)
Contractor Determinations

Purpose of Contract:
“A contract is for the purpose of obtaining goods and services and creates a procurement relationship with the contractor.”

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§ 200.330(b)
Contractor Determinations

Characteristics of a Contractor relationship:

1. Provides goods and services within normal business operations
2. Provides goods and services to many different purchasers
3. Normally operates within a competitive environment
4. Provides goods and services that are ancillary to the operation of the federal program
5. Is not subject to compliance requirements of the federal program

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§ 200.330(c)
Use Judgment In Making Determinations

- Recipient must use judgment in classifying each agreement as a subaward or procurement contract
- The substance of the agreement is more important than the form of the agreement
- All the characteristics of a subrecipient and/or contractor (see previous slides) may not be present
- The term “Vendor” has been replaced by “Contractor”

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§ 200.331 Requirements For Pass-through Entities

- a) Recipients must ensure every subaward is clearly identified to the subrecipient at the time of award including:
 - Federal Award Identification
 - Subrecipient's Name
 - Matching DUNS #
 - Federal Award ID Number (FAIN)
 - Federal Award Date
 - Subaward Period of Performance (Start/End)
 - Federal Funds Obligated per Agreement
 - Total Funds Obligated to Subrecipient
 - Total amount of the Federal Award
 - Project description
 - Name of Federal awarding agency, pass-through entity and contact for awarding official
 - CFDA Number and Name
 - Identification of whether the award is R&D
 - Indirect cost rate

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§ 200.331(a) Cont'd Requirements For Pass-through Entities

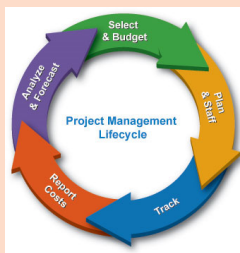
- 2. All requirements imposed on subrecipient so that the subaward is used in compliance with Federal Award
- 3. Any additional requirements imposed on subrecipient in order for recipient to meet its responsibility to the Federal awarding agency including financial and performance reports

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§ 200.331(a) Cont'd Requirements For Pass-through Entities

- 4. Indirect cost rate (Negotiated, Subrecipient approved Indirect Cost Rate, or 10% de minimis rate)
- 5. Access to records and financial statements
- 6. Terms and Conditions for closeout of subaward



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**§ 200.331 Cont'd
Requirements For Pass-through Entities**

- b) Evaluate each subrecipients risk of noncompliance such as prior experience, previous audits, recent changes, etc.
- d) Monitor as necessary to ensure compliance and performance including follow up to ensure corrective action is taken
- c) Consider imposing specific subaward conditions if appropriate

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**§ 200.331 cont'd
Requirements For Pass-through Entities**

- e) Depending upon the assessment of risk of subrecipients, the following measures may be useful to ensure accountability, compliance and performance:
 - Training
 - Technical assistance
 - On-site reviews
 - Agreed-upon-procedures engagements per 2 CFR 200.425 Audit Services



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**§ 200.331 cont'd
Requirements For Pass-through Entities**

- (f) Verify subrecipient is audited per Subpart F
- (h) Consider enforcement action against noncompliant subrecipients as described in § 200.338 does not apply per 24 CFR 1000.26 (a)(15) – 24 CFR 1000 Subpart F (g) Consider adjustments to the recipient's records based on the subrecipient's audit, reviews or other monitoring

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- Review subrecipient agreement documents to evaluate compliance with the provisions of §200.331.
- Provide staff training on new requirements
- Review/revise policy and procedures for revisions necessary to incorporate new requirements
- Inform/train subrecipients on new requirements; enter into revised agreements with subrecipients to implement new or missing provisions in compliance with UG.

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§ 200.332 Fixed Amount Subawards

Recipients may provide subawards based on fixed amounts providing that:

1. Prior written approval is provided by the Federal awarding agency
2. The subaward does not exceed the Simplified Acquisition Threshold which is currently \$250,000
3. In compliance with the requirements of 2 CFR § 200.201

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What Is A Fixed Amount Award?

DEFINITION AT §200.45 Fixed amount awards:

- Type of grant agreement
- Specific level of support without regard to actual costs incurred under the Federal award.
- Reduces some of the administrative burden and record-keeping requirements for both the non-Federal entity and Federal awarding agency or pass-through entity.
- Accountability is based primarily on performance and results.

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§ 200.333
Retention Requirements For Records

- Records must be retained for 3 years from the end of the tribal program year in which the funds were expended.
- Retain records beyond 3 years if they are involved in litigation, audit or other action until the matter is resolved.

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§ 200.334
Requests For Transfer Of Records

- However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.
- The Federal Award agency must request transfer of records to its custody when it is determined records possess long term retention value.

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§ 200.335 Methods For Collection, Transmission & Storage Of Information

The Federal Agency and Recipient:

- Must provide and accept paper version of award related information
- Should collect, transmit, and store federal award related information in machine readable formats (not paper)
- Must not require more than original and two copies of paper submissions
- When original records are electronic and cannot be altered there is no need to create and retain paper copies

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§ 200.335 Cont'd
**Methods For Collection, Transmission,
And Storage Of Information**

When original records are paper, electronic version may be substituted provided that:

- Reasonable safeguards against alteration are provided
- The records remain readable
- There are periodic quality control reviews

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§ 200.336
Access To Records

(a) The Federal Award Agency and their representatives must:

1. Have the right of access to any records pertaining to the award
2. Have reasonable and timely access to personnel for interview and discussion

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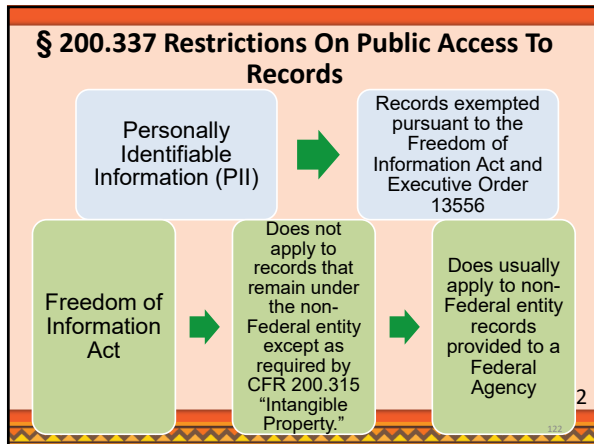
§ 200.336 Cont'd
Access To Records

b) Only under extraordinary and rare circumstances would access include the identity of crime victims (protect sensitive information)

c) The rights of access is not limited to the retention period but last as long as records are retained... other record access requirements cannot be imposed

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§ 200.338 Remedies For Noncompliance
IHBG EXCEPTION – Per 24 CFR § 1000.26 (a) (15), Program Specific Requirement
Follow Requirements of 24 CFR § 1000.530-542

Letter of Warning	Terminate funding
Progress Schedule	Reduce payments
Suspend	Restrict use of funding
Expenditures	Replace recipient
Redirect funds	Performance agreement
Repayment	Refer for civil action
Technical Assistance	

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§ 200.343 Closeout

Not Applicable to IHBG
Per 24 CFR 1000.26(a)(16)

IHBG is a block grant program. Left over funds are rolled over to the subsequent year and included in the Indian Housing Plan and Annual Performance Report

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§ 200.344
Post-closeout Adjustments And Continuing Responsibilities

(a) Closeout of the Federal award does not affect the following:

- The cost disallowance determination and notification must be within the record retention period
- The right to disallow costs and recover funds per the audit or other review
- The obligation to return any funds due as a result of later changes or transactions including final indirect cost rate adjustments
- Audit requirements per subpart F

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§ 200.344 Cont'd
**Post-closeout Adjustments
And Continuing Responsibilities**

(a) Closeout of the Federal award does not affect the following:

- Property management and disposition requirements per Subpart D CFR §200.310 thru §200.316
- Record retention per 2 CFR §200.333* thru §200.337

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§ 200.345
Collection Of Amounts Due

a) Any funds paid in excess of the amount finally determined to be entitled per the Federal award constitute a debt to the Federal Government.

If not paid within 90 days of demand, the debt may be reduced by offsetting other requests for reimbursements, withholding advance payments otherwise due, or take other actions as permitted.

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§ 200.345 Cont'd
Collection Of Amounts Due

b) Except where otherwise provided by statute or regulation, the Federal agency will charge interest on overdue debt per Federal Claims Collection Standards.

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COST PRINCIPLES –
Basic Considerations

Subparts E of 2 CFR §200.400 - 475

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§ 200.400
Policy Guide

Non-federal entity responsibilities:

a) Responsible for efficient and effective administration of the Federal award through sound financial management practices;

b) Assumes responsibility for administering the Federal funds in accordance with agreements, objectives, and terms and conditions of the Federal award;

c) Employs whatever form of sound organizational and management techniques for proper and efficient administration of the Federal award.

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§ 200.400, Cont'd
General Provisions - Policy Guide

d) Accounting practices must be consistent with cost principles and must provide adequate documentation to support costs charged to the Federal award.

e) If using Indirect Cost rates, application of costs (direct vs indirect costs) should be consistent.

g) 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.*

Note: NAHASDA Program – can earn and retain program income.

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§ 200.401
General Provisions - Application

(a) These cost principles **apply** and must be used by the non-federal entity:

- In determining the allowable costs of work performed under **federal awards**.
- As a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price.

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§ 200.401 cont'd
General Provisions – Application

These cost principles **do not apply** to:

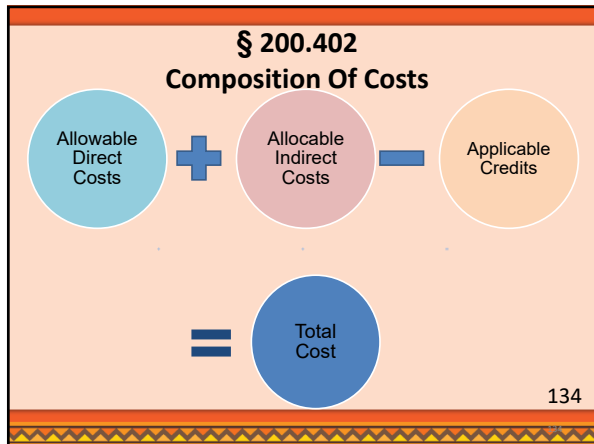
(a)(3) Fixed amount awards, cooperative agreements, and **contracts**. refer to §200.45 and § 200.201.

(a)(5) Other awards where the non-federal entity is not required to account to the federal government for actual costs incurred.

(c) some nonprofit organizations are exempted from these principles.

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§ 200.405(a)
Allocable Costs

Allocable – a cost is allocable if the goods or services involved are chargeable or assignable to that federal award or other cost objective in accordance with relative benefits received. this standard is met if the cost:

1. Is incurred specifically for the federal award.
2. Costs benefits both the federal award and other work of the non-federal entity and can be distributed proportionally using reasonable methods.
3. Is necessary to the overall operations of the non-federal entity and is assignable.

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§ 200.405 Allocable Costs

c) **Disallowed**: any cost allocable to a particular federal award may not be charged to other federal awards to:

- overcome fund deficiencies
- avoid restrictions imposed by federal statutes, regulations, or terms and conditions of the federal awards, or for other reasons...

except: can shift costs that are allowable under two or more federal awards in accordance with existing federal statutes, regs, or terms and conditions of the federal award.

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§ 200.405(d) Allocable Costs

Direct Cost Allocation Principle

- If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should be allocated to the projects based on the proportional benefit.
 - if not, costs may be allocated or transferred to benefitted projects on any reasonable documented basis.
for example: IT costs may be charged by FTE or users.
- **For the purchase of equipment or other capital asset specifically authorized under a federal award**, the costs are assignable to the federal award regardless of:
 - the use that may be made of the equipment, or
 - other capital asset involved when no longer needed for the purpose for which it was originally required.

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§ 200.407

Prior Written Approval

There are 25 items listed in this section – most of which are costs - that require prior written approval because the reasonableness and allocability of these items may be difficult to determine.

However - per program specific requirements at 24 CFR §1000.26(b)(1):
all items of cost listed in 2 CFR Part 200, subpart E which require prior federal agency approval are allowable without the prior approval of HUD... 138

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§ 200.408 - 409

§ 200.408 Limitation on allowance of costs

- Cannot charge costs above the statutory limit of the Federal award.

§ 200.409 Special considerations

- Note that certain provisions among the items of cost in this subpart, are only applicable to certain types of non-Federal entities such states, local governments, and Indian tribes. Example:
 - §200.416 - Cost allocation plans and indirect cost proposals
 - §200.417 - Interagency service

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§ 200.410 - 411

§ 200.410 Collection of unallowable costs

- Unallowable direct or indirect costs must be refunded or deducted, including interest to the Federal government, unless Federal statute or regulation directs otherwise.

§ 200.411 Adjustments of previously negotiated indirect (F&A) costs rates containing unallowable costs

- Adjust or refund

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Cost Principles – *Direct and Indirect Costs*

Subparts E of 2 CFR §200.412 - 417

141

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§200.413(d) & (e)

Direct Costs

(d) **direct cost of a minor amount** – may be treated as an indirect (F&A) cost for reasons of practicality.

(e) **cost of certain activities are not allowable** as charges to federal awards... but must be allocated their share of the non-federal entity's indirect costs.

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§ 200.414
Indirect (F&A) Costs

definition at 200.56 Indirect (facilities & administrative) (F&A) costs means:

- Those costs incurred for a common or joint purpose benefiting more than one cost objective, and
- Not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.
- To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. 143

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§ 200.414(c) &(f)
Indirect (F&A) Costs

§ 200.414 (a) & (b) – not applicable to NAHASDA

- (c) The negotiated Indirect Cost Rates must be accepted by all federal awarding agencies (some exceptions apply).
- (f) If never had a rate, have option for **de minimus rate of 10% of Modified Total Direct Cost (MTDC)**, which may be used indefinitely until approved rate is negotiated with an agency. (see §200.68 for MTDC definition) 144

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§ 200.414 Cont'd
Indirect (F&A) Costs

- (g) A non-federal entity that has a current federally negotiated indirect cost rate may apply for a one-time extension of the rates for a period of up to four (4) years. 145

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**§ 200.414 (e) Cont'd
Indirect (F&A) Costs**

Development and Submission of Indirect (F&A) Cost Rate Proposals and Cost Allocation Plans are found at:

- Appendix IV: Non-profit Organizations
- Appendix V: State/Local Governmentwide Central Service Cost Allocation Plans
- Appendix VII: States And Local Governments And Indian Tribe Indirect Cost Proposals

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**Cost Principles – General
Provisions for Selected Items
of Cost**

Subparts E of 2 CFR §200.420 - 475

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**To Comply With §200.302(b)(7); Subpart E
Cost Principles - Written Procedures For
Determining The Allowability Of Costs**



Update written procedures to:

- ensure written procedures adequately describes how costs are determined to be allowable;
- ensure procedures are in accordance with the cost principles established in the uniform guidance;
- incorporates program specific requirements of the federal program.
- ensure the procedure assigns specific responsibility to appropriate staff with adequate internal controls.

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§ 200.420- § 200.475
Subpart E – Cost Principles
Selected Items Of Costs

This section provides principles to be:

- Applied in establishing the allowability of certain items involved in determining cost.
- Apply whether a particular item of cost is properly treated as direct cost or indirect cost.

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§ 200.425
Audit Services

(a) a reasonably proportionate share of the costs of audits required by, and performed in accordance with, the single audit act.

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§ 200.425(a)
Audit Services

Unallowable audit costs:

1. When audits are required by the single audit act and subpart f—audit requirements, but
 - the audits have not been conducted, or
 - have been conducted, but not in accordance with these requirements.
2. Auditing costs for audits exempted from the single audit act because its expenditures under federal awards are less than \$750,000. 151

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§ 200.430(c)
Compensation – Personal Services

Professional activities outside the non-federal entity for extra outside pay

- Must follow **written entity-wide policies and practices** regarding work outside the non-federal entity for non-organizational compensation.

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§ 200.425(a) Audit Services

- Conduct a review of past RFP's and auditor contracts to ensure scope of audit was completed in compliance with standards of subpart F of the uniform guidance. Revise as needed.
- Conduct review of the allocation of costs to pay for the single audit to ensure the cost was proportionately shared across federal funds.
- Ensure the cost of audits is not included in a negotiated indirect cost pool and as a direct audit cost, thus, a duplicative charge to IHBG.
- Update accounting manual/procedures to ensure the above standards are implemented.

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§ 200.430(c)
Compensation – Personal Services

Professional activities outside the non-federal entity for extra outside pay

- If no written policy, federal awarding agency may require staff time allocated between
 - (1) non-federal entity activities, and
 - (2) non-organizational professional activities.

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§ 200.430(c)
Compensation – Personal Services
Professional activities outside the non-federal entity for extra outside pay

- Federal awarding agency will negotiate an appropriate compensation if staff non-organizational professional effort is considered excessive or inconsistent with the conflicts-of-interest terms and conditions of the federal award.

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§ 200.430(f)
Compensation – Personal Services
Incentive compensation – allowable

Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., allowable if:

- the overall compensation is reasonable and;
- are paid or accrued pursuant to an agreement entered into in good faith between the non-federal entity and the employees before the services were rendered...

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§ 200.431(a)
Compensation – Fringe Benefits

- Provides specificity and clarity on allowable costs for fringe benefits: leave, employee insurance, pension plans, post-retirement health plans, and severance pay.
- Overarching criteria of §200.431 – unless excepted elsewhere in these principles, allowable if:
 - reasonable
 - required by law or employment agreement
 - or established (written) policies of the entity

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§ 200.431(b)
Compensation – Fringe Benefits

LEAVE PAY – authorized absences - **ALLOWABLE** if all of the following criteria are met:

- provided under **established written leave policies**
- costs are equitably allocated to all related activities and federal awards
- the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed.

Examples: annual leave, family related leave, sick leave, holidays, court leave, military leave, administrative...

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§ 200.431(e)(2)
Compensation – Fringe Benefits
INSURANCE

ALLOWABLE - costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation.

UNALLOWABLE - the costs of such insurance when the non-federal entity is named as beneficiary.

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§ 200.431(f)
Compensation – Fringe Benefits


AUTOMOBILES –that portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is

UNALLOWABLE as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees.

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§ 200.431
Compensation – Fringe Benefits



- Evaluate status of vehicles assigned to staff to determine level of personal use. amend vehicle use policies to prohibit personal use of vehicles.
- As part of the requirement of §200.302 (b) (7), recipient must have written procedures for how the determination of allowable costs are made. ensure written procedures are updated to ensure new language for determining allowable costs for fringe benefits.
- Provide training to staff on your procedures.

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§ 200.431(i)(1)
Compensation – Fringe Benefits

SEVERANCE PAY
ALLOWABLE IF: it is required by:

- law, employer-employee agreement, established policy that constitutes, in effect, an implied agreement on the non-federal entity's part, or circumstances of the particular employment.

UNALLOWABLE IF:

- it is in excess of normal severance pay paid, and pay is contingent upon a change in management control over, or ownership of the non-federal entity's assets.

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§ 200.432
Conferences


CONFERENCE COSTS – ALLOWABLE:
“...unless further restricted” by award terms/conditions:

- cost of identifying, but not providing, locally available dependent care resources are allowable.
- conference hosts/sponsors must exercise discretion...conference costs are appropriate, necessary, and managed to minimize costs.
- federal awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly.

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§ 200.432 Conferences



- As part of the requirement of §200.302 (b) (7), recipient must have written procedures for how the determination of allowable costs are made.
- Update written procedures to ensure new language for allowable costs for conferences is included.
- Provide training to staff on your procedures.

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**§ 200.433
Contingency Provisions**

ALLOWABLE: Contingency provisions for budgets of large construction projects if:

- specified in the budget documentation of the federal award and must be accepted by the federal awarding agency.
- *note: HUD only approves the TDC limits for the total project budget, which includes contingency provisions.*

UNALLOWABLE: payments made to a contingency reserve for “events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening.”

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**§ 200.435
Defense And Prosecution Of Criminal And Civil Proceedings, Claims, Appeals And Patent Infringements**

- Overall basic intent:
 - **ALLOWABLE** - legal expenses for administration of federal programs.
 - **UNALLOWABLE** - legal expenses for prosecution of claims against the federal government.
- § 200.435 (e): describes strict criteria for how unallowed cost may be allowed.

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§ 200.436(a)

Depreciation

DEPRECIATION is the method for allocating the cost of fixed assets to periods benefitting from asset use (over the useful life of the asset).

The non-federal entity may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the non-federal entity's activities, and properly allocated to federal awards.

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§ 200.436

Depreciation (Cont'd)

- (c) Donated Asset:
 - acquisition cost is valued at fair market value
 - depreciated or claimed as matching, but not both

- (d)(2) Computing depreciation:
 - preferred depreciation method: straight line
 - a change in the depreciation method requires HUD pre-approval [program specific regulations at 1000.26(b)(1)(i)[IHBG]

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§ 200.437

Employee Health And Welfare Costs

ALLOWABLE: costs incurred in accordance with the non-federal entity's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance.

UNALLOWABLE: costs associated with "EMPLOYEE MORALE".

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§ 200.438
Entertainment Costs

**UNALLOWABLE – HOWEVER,
 Allowable Under Certain Circumstances**

“...where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the federal award or with prior written approval of the federal awarding agency.”

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§ 200.441
**Fines, Penalties, Damages
 And Other Settlements**

UNALLOWABLE:
**Refer to Program Specific Regulations: IHBG
 24 CFR §1000.26(b)(1)(ii):**

“Penalties, damages, fines and other settlements are unallowable costs to the IHBG program.”

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§ 200.442(a)
Fund Raising And Investment Management Costs

•UNALLOWABLE

- Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions

•ALLOWABLE

- Fund raising costs for the purposes of meeting the Federal program objectives, investment costs related to IHBG investments, costs related to the physical custody and control of monies and securities

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§ 200.444(b)
General Costs Of Government

For Indian tribes and councils of governments (COG) (see §200.64 local government):

ALLOWABLE: the portion of salaries and expenses directly attributable to managing and operating federal programs by the chief executive and his or her staff is allowable.

Note: up to 50% of these costs can be included in the indirect cost calculation without documentation.¹⁷³

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§ 200.445
Goods Or Services For Personal Use
SPECIFIC TO EMPLOYEES

(a) Cost of goods for personal use – **unallowed**.

(b) Cost of housing (rent), housing allowances and personal living expenses are only **allowable** as direct costs but must be approved in advance by Federal awarding agency.

Program Specific Requirements:
Requires Prior HUD Approval
IHBG: 1000.26(b)(1)(iii)

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§ 200.451
Losses on Other Awards or Contracts

UNALLOWABLE

- Any excess of costs over income under any other award or contract.
- Any excess of costs over authorized funding level transferred from any award or contract.
- All losses are not allowable indirect costs;
 - must include in the appropriate indirect cost rate base for allocation of indirect costs.

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§ 200.453(c)
Materials And Supplies, Including Costs Of Computing Devices

Materials and supplies used for the performance of a federal award may be charged as direct costs.
In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a federal award.

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§ 200.455
Organizational Costs

Organizational costs in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the federal awarding agency.

- IHBG – allowable under 1000.26 (b)(1) – no HUD prior approval is required

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§ 200.456
Participant Support Costs

Definition: § 200.75 participant support costs.
Participant support costs - direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects. allowable with the prior approval of the federal awarding agency for conferences or training projects
[note: No HUD prior approval required for IHBG program]

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§ 200.463
Recruiting Costs

ALLOWABLE if costs:

- (a) Are incurred pursuant to the non-federal entity's standard recruitment program and costs of employment agencies are not in excess of standard commercial rates for such services.
- (b) Any form of compensation (fringe benefits, salary allowance) must meet test of reasonableness.
- (c) If the employee resigns for reasons within the employee's control within 12 months after hire, the non-federal entity must pay back the relocation costs to the awarding agency (becomes unallowable cost).

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§ 200.464(a)
Relocation Costs Of Employees

Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period exceeding 12 months) **of an existing employee or upon recruitment of a new employee.**

Relocation costs are **allowable, subject to:**

- (1) the move is for the benefit of the employer.
- (2) reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.
- (3) the reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

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§ 200.464(b)
Relocation Costs Of Employees

Relocation costs for current employees are allowable, but limited for:

- (1) the costs of transportation of household, and personal effects to the new location.
- (2) the costs of finding a new home.
- (3) closing costs, of former home
- (4) the continuing costs of ownership (for up to six months) of the vacant former home.
- (5) other necessary and reasonable expenses normally incident to relocation.

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§ 200.463 & 464 Cont'd
Recruiting Costs & Relocation Costs



- Review and evaluate recent funded activities for recruitment or relocation of employees
- Assess current management system(s) to determine how the tribe's/TDHE's "standard recruitment" program is documented and whether it meets the cost limitation language (i.e. established by policy)
- Update existing personnel policy

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§ 200.474(c)
Travel Costs

- (1) Temporary dependent care costs above and beyond regular dependent care - allowable provided that:
- (i) direct result of the individual's travel for the federal award;
 - (ii) costs are reasonable and consistent with documented travel policy;
 - (iii) temporary only for the travel period.
- (2) dependent travel expenses are **unallowable** except when travel of 6 months or more with prior approval of federal awarding agency.

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§ 200.474(e)(1) Travel Costs

Commercial air travel: airfare costs in excess of the basic least expensive unrestricted accommodations class offered by a commercial airlines are unallowable except when such accommodations would:

- (i) require circuitous routing;
- (ii) require travel during unreasonable hours;
- (iii) excessively prolong travel;
- (iv) result in additional costs that would offset the transportation savings; or
- (v) offer accommodations not reasonably adequate for the traveler's medical needs. first-class or business-class airfare must be justified to be allowable.

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§ 200.432 Travel Costs

Update written travel policy and procedures to include:

- provision for allowability of temporary dependent care costs...above and beyond regular dependent care.
- airfare costs are unallowable if it is in excess of the basic least expensive unrestricted fare
- provide training to staff on your procedures.

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Audit Requirements

Subparts F of 2 CFR §200.500 - 520

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§ 200.500 - § 200.521 Subpart F - Audit Requirements

PURPOSE

...sets forth standards for obtaining consistency and uniformity among federal agencies for the audit of non-federal entities expending federal awards.

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§ 200.501(a)
Audit Requirements

When a Single Audit is Required:

A non-federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in federal awards must have a:

- a **single audit** or a **program-specific audit** conducted for that year in accordance with the provisions of this part.

[Note: subpart f audit requirements also cross-referenced in the NAHASDA regulations (§1000.544)]

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§ 200.501(f)
Audit Requirements

reminder:

A subrecipient may simultaneously be a recipient, subrecipient, and a contractor.

- if subrecipient – funds are subject to single audit.
- if contractor – funds are not subject to single audit.

Cross-references with 200.330 to determine whether payments constitutes a federal award (subrecipient) or a payment for good and services (to a contractor).

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§ 200.502
Federal Awards Expended

For the NAHASDA program, federal awards expended are generally:

- Expenditure/expense transactions associated with the IHBG funds
- The disbursement of funds to subrecipients
- The use of loan proceeds under loan and loan guarantee programs
 - Title VI Loan Guarantee Program

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§200.503
Relation To Other Audit Requirements

EMPHASIS:

- Federal agencies may require or arrange to conduct additional audits
- However, if Federal Audit Clearinghouse (FAC) posted audit meets needs of agency, then must rely on it
- If not, new audit planned must not be duplicative and must build upon previous work performed

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§ 200.506
Audit Costs – Allowable

What Are Allowable/Unallowable Audit Costs?
Refer To 200.425 Audit Services

[Note: IHBG Program Specific Requirement For Audits Provides For “Periodic Financial Review” At §1000.546]

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§ 200.508
Auditee Responsibilities

(a) Procure the single audit. Refer to 200.509 – Audit Selection

(b) Prepare the Schedule of Expenditures of Federal awards (SEFA). Refer to 200.510 Financial Statements

(c) Prompt follow-up and corrective actions on audit findings. Refer to 200.511 – Audit Findings Follow-up

(d) Provide auditor with access to records (Personnel, records, etc.)

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§ 200.509
Auditor Selection


(a) In procuring an auditor, emphasis:

- "...the objective is to obtain high-quality audits."
- "...the objectives and scope of the audit must be made clear and the non-federal entity must request a copy of the **audit organization's peer review report** which the auditor is required to provide under GAGAS (generally accepted government auditing standards).

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§ 200.509 Auditor Selection



- Update tribes/TDHE RFP's for audit services to request auditor's peer review report
- If an auditor cannot provide recent peer review report, determine the proposal is unresponsive.

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§ 200.510 Financial Statements

AUDITEE responsibilities:

1. **financial statements** – must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited.
2. **schedule of expenditures of federal awards (SEFA)** – must prepare for the same period as the financial statements and must include total federal awards expended as noted in 200.502. 197

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§ 200.511(a) Audit Findings Follow-up

AUDITEE'S general responsibilities:

- Follow-up and corrective actions on all audit findings (compliance and financial statement audit).
- Prepare the summary schedule of prior audit findings.
- prepare a corrective action plan for current year audit findings.
- Must report the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
- Must include reference numbers the auditor assigns to audit findings, and the fiscal year in which the finding initially occurred.
- The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements which are required to be reported in accordance with GAGAS.

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§ 200.511(b & c)

Audit Findings Follow-up (Cont'd)

- b. AUDITEE responsibilities related to PRIOR AUDIT FINDINGS:
 1. if fully corrected, list the audit findings and state that corrective action was taken.
 2. if not corrected or only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action...
 3. if audit findings are no longer valid, state reasons.
- c. AUDITEE responsibilities for CORRECTIVE ACTION PLAN:
 1. at the completion of the audit, the auditee must prepare, in a document separate from the auditor's findings described in §200.516 audit findings, a corrective action plan to include in the current year auditor's report. 199

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§ 200.511(c)
Corrective Action Plan

- Name of non-federal entity and person responsible for corrective action: name, address, and contact information
- Finding number and title: 2019-01 allowable costs
- Description of the finding and recommendation (by the auditor): NAHASDA funds used for unallowable activities.
- Did you agree with the finding? if no, provide an explanation and specific reasons. concur
- Planned correction plan:
 - outline proposed milestones and assign completion date for each
 - implement written authorization and approval procedures for allowable costs.
- Due date to complete the implementation of the corrective action plan: June 30, 2020

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§ 200.512(a) Report Submission

GENERAL

(1) Audit must be completed and the data collection form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. if the due date falls on a Saturday, Sunday, or federal holiday, the reporting package is due the next business day.

(2) Unless restricted by federal statutes or regulations:

- auditees must make audit copies available for public inspection.
- auditees and auditors must ensure reporting package does not include protected personally identifiable information.

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§ 200.512 (b)(2)
Report Submission (Cont'd)

EXCEPTION FOR INDIAN TRIBES AND TRIBAL ORGANIZATIONS

- May choose not to authorize the FAC to make the reporting package publicly available on a web site, by excluding the authorization for the fac publication.
- If option is exercised, the auditee must submit the reporting package:
 - directly to any pass-through entities through which it has received a federal award , and
 - to pass-through entities for which the summary schedule of prior audit findings reported the status of any findings related to federal awards that the pass-through entity provided.
 - must make copies of the report package available for public inspection.

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§ 200.514 Scope Of Audit

AUDITOR (responsibilities) must conduct the audit:

- In accordance with GAGAS (Generally Accepted Government Auditing Standards) and must cover the entire operations of the auditee.
- Perform an audit on the auditee's financial statements and the Schedule of Expenditures of Federal Awards (SEFA), and both must be for the same audit period.
- Perform procedures related to internal controls for the major programs.
- Determine whether auditee complied with the compliance requirements of the federal award that may have a direct and material effect on each of its major programs. [refer to **appendix xi to part 200—compliance supplement** - available on the OMB web site at <http://www.whitehouse.gov/omb/circulars/>]
- must follow up on prior audit findings.
- complete and sign specified sections of the data collection form. 204

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§ 200.515 Audit Reporting

The auditor's report(s) may be in the form of either combined or separate reports and must state that the audit was conducted in accordance with 2 CFR Part 200, subpart F and include the following:

- an opinion or disclaimer of an opinion on the financial statements and
- an opinion or disclaimer of an opinion on whether the schedule of expenditures (SEFA) is fairly stated in all material respects in relation to the financial statements as a whole.
- a report on internal control over financial reporting and compliance.
- a report on compliance for each major program and a report on internal control over compliance.
- a schedule of findings and questioned costs. 205

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§ 200.516(a) Audit Findings

AUDITOR must report in the schedule of findings and questioned costs:

1. Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs.
2. Material noncompliance with provisions of the award(s).
3. Known and likely known questioned costs greater than \$25,000 for a type of compliance requirement for a major program.
4. Known questioned costs over \$25,000 for a non major program.

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**§ 200.516 (A)
Audit Findings (Cont'd)**

5. Reasons for an opinion that is other than **unmodified opinion**.
6. Known or likely fraud affecting the federal award.
Does not require the auditor to report publicly information that could compromise investigative or legal proceedings.
7. Incorrect auditee report of corrective action on prior findings.

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**§ 200.516(b)
Audit Findings (Cont'd)**

Auditor Responsibility – specific information to be included in audit findings:

- (1) federal program and specific **federal award identification**.
- (2) **criteria** or specific requirement upon which the audit finding is based.
- (3) the **condition** found, including facts that support the deficiency identified.
- (4) a **statement of cause** (condition) and required state (criteria) – a basis for recommendations for corrective action.
- (5) a **statement of the effect** or potential effect to establish impact of the difference between the condition and the criteria.

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§ 200.516(b)
Audit Findings (Cont'd)

Auditor Responsibility – specific information to be included in audit findings:

(6) **Identify questioned costs** and how they were computed, by CFDA number and federal award identification number.

(7) **Information to provide proper perspective** for judging the prevalence and consequences of the audit findings...(is this an isolated instance or a systemic problem?).

(8) Identify if audit finding was a **repeat of a finding** in the immediately prior audit and if so, any applicable prior year audit finding numbers.

(9) recommendations to prevent future occurrences. 209

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§ 200.516(c)
Audit Findings (Cont'd)

Reference Numbers

Each audit finding in the schedule of findings and questioned costs must include a reference number in the format meeting the requirements of the data collection form submission required by §200.512 report submission, paragraph (b) to allow for easy referencing of the audit findings during follow-up.

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§ 200.518(a) Major Program Determination

GENERAL: a risk-based approach

Auditor must use a risk-based approach to determine which federal programs are major programs, and considers:

- current and prior audit experience,
- oversight by federal agencies and pass-through entities, and
- the inherent risk of the federal program.

NOTE: the risk-based approach reflect the increased focus on oversight and greatest **risk** of waste, fraud, and abuse of taxpayer dollars. 211

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§ 200.518(b) – (e)
Major Program Determination

Auditor must follow these steps to determine major programs to audit

Step 1: Identify Type A or Type B Programs
Type A: => \$750,000; Type B: below \$750,000

Step 2: Risk Assessment – Identify Type A programs which are not low-risk

Step 3: Risk Assessment - Identify high-risk Type B Programs

Step 4: Auditor must audit all major programs identified in Step 2 and Step 3:

- Percent of Coverage Rule
 - Low Risk Auditee - 20% of Federal Exp
 - Non-Low Risk Auditee – 40% of Fed Exp

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§ 200.521(d)
Management Decision

TIME REQUIREMENTS. the federal awarding agency or pass-through entity is responsible for issuing a management decision and must do so within six months of acceptance of the audit report by the FAC.

The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

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Thank You!

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