**Workforce 3One**

**Transcript of Webinar**

**OMB Uniform Guidance: Overview**

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BRIAN KEATING: – every one of these smart financial grants management series, OMB Uniform Guidance: Overview webinar. Again, type into that chat. We'll leave it up for a minute or two to give you a chance to type in there, if you haven't already done so, and we will have a similar chat up where you can go ahead and type in your questions or comments at any point during today's webinar. So feel free to let us know if you need anything or type in a question or comment.

And with that being said I want to turn things – actually introduce Maggie Ewell. Maggie is the policy team lead from the Office of Grants Management. Also want to introduce Steven Daniels. Steven is the division chief with the Office of Grants Management.

And to kick things off I'm going to turn things over to Maggie Ewell. Maggie?

MAGGIE EWELL: Thank you so much, Brian, and thank you all for being here today. This is the kickoff webinar for our smart financial grants management training. Some of you may have had the opportunity to attend one of our 10 in-person sessions held last March and April, and we are also hopeful to have some more in-person sessions later in 2015 and early 2016. And concurrent to that we're launching our webinar series, and today is our first one.

We're going to provide an overview of the Uniform Guidance. This is a very important topic. The Uniform Guidance is the first consolidation of federal grant management requirements in many years. Federal grant financial and administrative requirements used to be found in eight separate documents, and the Uniform Guidance represent not only the first time they've been consolidated into a single set of regulations but the first time they've been updated in a number of years.

In fact, a little hint – trivia history. The first time that they were issued was in the 1980s. That was pre-computer, pre-internet. So we're operating in a very different world today, and it's exciting to see that we've caught up with the times.

There are a number of changes to the guidance that are going to impact grants and how they are managed. So not only is the guidance updated, but there are changes throughout the document that have a direct impact on your management processes and systems. Additionally, DOL adopted the Uniform Guidance with some exceptions that apply specifically to the award and management of your grant and are critical to your compliance requirements. These are codified at 2 CFR 2900.

Then the Uniform Guidance looks different. So we want to briefly review its structure. We're going to cover some of the new and changed definitions. And finally we want to make sure that you understand the implementation options, when the Uniform Guidance was effective for new grants, and any options to apply it to your older grant. And just as one final aside for those who didn't know, we published the Uniform Guidance on December 19th, 2014. It was effective December 26, 2014. And there are some grace periods we'll be talking about throughout the presentation.

So specifically we're going to talk about the structure and applicability of the Uniform Guidance. We're going to go through the exceptions and major changes, and then close with implementation options.

So before we get started, a fundamental provision of our smart training is to try to assess gain in knowledge. And so we would like to start out with some polls for – to assess your knowledge at the beginning. We're then going to put these same polls up at the end to measure your improvement. We are looking to be performance-driven. As one hint, the Uniform Guidance now looks at performance as an integral part of grant management.

So our first poll is, I am fully aware of the various OMB circulars that are impacted by the issuance of the Uniform Guidance. And so it looks like we've got some people voting. Some people are very aware of it. Some people are not so much.

MR. KEATING: All right. You'll notice that today's poll there, we've got a one to five scale, and so five is the highest rating. So go ahead and vote, if you haven't already done so, using that one to five scale.

MS. EWELL: Still not a lot of voting. We have almost 300 people on the line, and we probably have about 150 have voted. So please go ahead and vote. It is anonymous. We won't judge you. The point of this training is to increase knowledge.

All right. Why don't we go ahead and broadcast the results. I think most people fall in the middle, thinking that they are aware but they're not perhaps as fully aware as they would like to be, which is why you're here today.

So let's move on to our second question about the structure of the Uniform Guidance. Please let us know how comfortable you feel with your understanding of the new structure.

MR. KEATING: All right. And you'll notice we still have the same scale. So it's a one to five scale. Five is the highest vote. So go ahead and vote based on one to five with five being the maximum.

GARY GONZALEZ: And to participate in the poll, mouse over and left click the radio option to the left of the selection. The options, as Brian has said, are one through five, starting with one and going to five, five being the highest.

MS. EWELL: Great. All right. So we have a very good chunk of people here who aren't familiar with the structure and a smaller number that are. So we'll be covering that for you. You can go ahead and broadcast the results, and we'll move on to the next one.

All right. This is important because this is the critical message we want to make sure you understand leaving this webinar. I know where to find resources to assist in my understanding of the Uniform Guidance. And again, five being – I got that completely – one meaning I don't know where to go.

MR. KEATING: And like Gary said, the radio buttons are right on your screen. Go ahead and click that button that corresponds with your vote now. I'll give you a few seconds to do that.

MS. EWELL: All right. So it did it. So a good number of you, more than 50 percent know where to go. OK. We can broadcast the results.

All right. And then the last one is I understand the options available for implementation. And again this is a critical portion of this webinar so that you understand how implementation will occur and what it applies to. All right. And weighing in, not a lot of people. We're finding people who aren't sure about how to implement this.

All right. So let's move ahead. That was our last poll, and so now with that I'm going to turn it over to Steven Daniels. He's the division chief for the policy division, and he was a member of the Council on Financial Assistance Reform who wrote the Uniform Guidance. So we're lucky to have him. Turn it over to Steve.

STEVEN DANIELS: Well, thank you very much, Maggie. So I can assume that all 300 of you out there are probably thinking, why did OMB [gin ?] up this thing called the Uniform Guidance? Before it was called the Uniform Guidance, it was called the super circular. Before it was called the super circular, the inside circles knew it as the omni-circular. Though it's got a humongous name, today it's simply known as the Uniform Guidance. So about the Uniform Guidance, the structure of the Uniform Guidance, the genesis of the Uniform Guidance, everything you ever wanted to know about the Uniform Guidance and more I promise you will know today.

OK. Before the COFAR – BC, before the COFAR – and the COFAR stands for the Council on Financial Assistance Reform, and I can remember back to my undergraduate days. Every now and again you'd get a nice graduate student who would say, you may want to make note of this because it's probably on the final.

So the Council on Financial Assistance Reform, the COFAR – that may be on a quiz later – this was stood up actually as a result of an OMB memorandum 12-01. Prior to the COFAR, we had something called the GPCGEV, and it was made up of 28 grant-making agencies. As a member of the old GPCGEV – this was going back over four years ago now – and having 28 grant-making agencies present, I can tell you that decisions were slow.

In fact, it's similar to how my wife and I decide where we're going to go to dinner on a Friday night. I typically say, okay. So where do you want to go for dinner tonight? And my wife says, wherever you want to go. And I say, what would you like? And she says, I'm good with anything. And I say, Mexican. And she says, not so sure I want something that heavy tonight. And I say, fine. How about Chinese? No. You know, I really don't think I'd like to have that tonight.

So the way the old GPCGEV moved was very similar to that situation. We made zero decisions in the years that I was involved, not because of me, because of the way we were structured.

So under this new OMB memorandum 12-01, the COFAR was thought up. That occurred on October 27th, 2011. We're comprised and led by two chairs, one the OMB comptroller who happens to be Dave Matter, and the CFO of HHS. There are nine member agencies, and it's made up of the eight largest agencies, and that happens to be DOL as a full member.

Our member is our CFO. Our senior participant happens to be Laura Watson who is our associate deputy director here in the Office of Grants Management. And I happen to reside at the very lowest level possible, the worker bee level. There is a ninth member, and that is a rotating member. And that member happens to represent all of the other little agencies.

So on February 28 – giving you a little bit more background here – OMB published the Advanced Notice of Proposed Guidance. So this was in the president's thinking and in OMB's thinking going way, way back. It was a rather abbreviated document that, when you first read it, you were shocked by all the changes OMB wanted to make.

Then on February 1st of 2013 the Notice to Proposed Guidance was published. That was a more expansive document which allowed us to have a better looksy at what was actually going to happen with this consolidation. After two years of very hard work, laborious work I might add, the final guidance was published on December 26, 2013.

So I know you're wondering why would you develop this Uniform Guidance. Well, there's a couple of good reasons for that. Let's go back and take a look at how we really looked at grants and grants management historically. The Uniform Guidance really has its roots in something called Public Law 106.107. Public Law 106.107 was passed in 1999 and sunset in 2008. It was a direct result of a GAO audit.

The mission and the purpose of Public Law 106.107 was to streamline and to eliminate, reduced duplication. Two key initiatives were a result of Public Law 106.107. One was grants.gov, and for anybody who's ever done a discretionary award, you're very familiar with grants.gov. In addition to that, a basic template for how funding opportunity announcements were to be formed up was also published, and that's the format under which federal agencies notify those who would like to apply for awards what the specific application should look like.

So again here, the overarching thought was to reduce burden and to streamline. Those were a couple of the key pieces as it relates to the Uniform Guidance through a need to leverage technology – and this is the use of technology. How do we use technology? How are we using the information that we're gathering? What kind of data are we ginning up, and are we actually using that data effectively? The acquisition of technology software and hardware, we're going to talk about that a little bit more today, and importantly to encourage the use of shared services. We'd like to see a little bit more of that, and you'll see that well-demonstrated throughout the Uniform Guidance.

Importantly too was to strengthen oversight, and this is a critical factor. You'll see in the Uniform Guidance focus on areas of high risk. We're going to do that through the utilization of A-133 audits. You'll see strengthening in the Uniform Guidance as it relates to monitoring by federal agencies and pass-through entities, and specifically we're talking about our prime recipients.

So what happened here? Well, what the COFAR really did is we took eight separate IMB circulars. Two were administrative requirements and they were A-102 and A-110. A-102 applied to governments, local government, tribal organizations, and so on. A-110 applied to non-profits and institutions of higher education.

There are three sets of cost principles, A-87 for government, A-122 for non-profits, and A-21 for institutions of higher education. Two sets of audit requirements, A-133 and A-50, and A-133 is certainly something most of you are familiar with out there, especially in the past if your total federal expenditures in a fiscal year exceeded $500,000. These eight circulars that we used to have were cause for a little bit of confusion.

First, if you were a pass-through entity, you had to know specifically what kind of entity it was that you were making a subrecipient because you had to include the appropriate administrative requirements and cost principles. When questions came in to you as a pass-through entity, you had to know exactly where did the question come from, again so you could look at the correct guidance document. In short, there were different rules for different folks and that was confusing and it was inconsistent from circular to circular.

Now, we have this one document called the Uniform Guidance. It's one set of rules all in one place. So we had these eight documents, and we've now consolidated them into one document, the Uniform Guidance. The new Uniform Guidance is comprised of six parts. We have acronyms and definitions. That's subpart A.

Subpart B is general provisions and applicability, and importantly as it relates to applicability, there are some key dates involved here and that's when I got my money. Was the money in the award issued before 12/26/2014, or was my money after 12/26/2014 because the applicability of the old rules or the new rules comes into play? Subpart C is pre-award. D is post-award, and those are basically your administrative requirements. Subpart E is cost principles, and subpart F is audit.

All right. Let's take a look now at a little bit of a knowledge check to see what we've gotten from our talk so far. Our first question is, the COFAR stands for the Council on Federal Awards and Regulations. So go ahead and type in your answer there. Hit the radio button as to whether or not you believe that's true or that's false. And so far folks are saying it's false, which hurts me deeply when I indicated – and let's go ahead and reveal the results here. That this was a heads up hint. So I'm hurt. I'm a terrible teacher I guess – that COFAR actually stands for the Council on Financial Assistance Reform.

OK. Second question. The Uniform Guidance consolidates requirements from eight different OMB circulars. So if you go in there and tap your radio button as to whether or not this is true or false, that would be wonderful. Oh, my gosh. We have outstanding students out there. So far the overwhelming group, about 90 percent if we go ahead and reveal, indicates that this answer is true. That's great. Good work, everyone.

Our next question, the sections of the Uniform Guidance contain consolidated requirements that apply separately to different types of organizations. So let's go ahead and answer that one now too, if we could, please. Results are coming in a little slower than before. We were well over 300 before. Folks are chewing it over, contemplating, flipping coins, asking the person sitting next to them, and let's go ahead and reveal. About 62 percent nailed this. 63. The number is growing. This happens to be false. OK. It's one document, and it applies to all different kinds of organizations.

OK. Maggie, how about telling us a little bit more about some of the structure and some of the major definitions?

MS. EWELL: Sure. All right. Well, let's move ahead. As Steve mentioned, we've got Section A. Section A covers the list of acronyms used throughout the document. I do want to point out that we are the government. We do love acronyms. However, one acronym we have not moved on to take is for the Uniform Guidance because, as you may have figured out, its acronym is UG. Maybe appropriate, but we're not using it.

However, there are a list of acronyms that really help in understanding all of the jargon. There are also a number of new definitions in the updated guidance, and some of the terms have been updated. You heard Steve talking about pass-through entities. That was a term previously used in the audit circulars but was not used in the administrative requirements of the cost principles. In fact, we used to use terms like "prime recipient," "direct recipient."

So now, the term is "pass-through entity." So in some ways reading the Uniform Guidance and understanding it is learning a bit of a new language. We've also dropped some terms for the Uniform Guidance. If you look for the term vendor, no longer in the Uniform Guidance. They're now called contractors. We're going to be covering that in more detail.

Subpart B covers general provisions across the board. In this section we've got the effective dates for the guidance as well as the applicability of the guidance.

Subpart C is pre-award requirements. So for those of you who are discretionary grants, this is all of that work that happens before a competition and a grant is awarded. Our formula grants are a little bit different since they're governed by our statutes. This section specifically addresses the responsibilities that we as a federal agency have for issuing notices of funding opportunities or as we call them FOAs, review of applications and the conditions for award. And the Appendix I contains the standardized notice which DOL now follows.

Subpart D is the post-federal award requirements. This is the meat of your administrative requirements and really looks like the old uniform administrative requirements. It covers the management of federal awards from beginning through closeout. And in Appendix II we provide the list of contract provisions for subcontracts under your award.

Then we move to the cost principles in subpart E. This section addresses the conditions that must be met in order to charge costs to the federal award. It also addresses indirect costs and the requirements that apply to them. In addition, the cost principles contain the selected items of cost and specify conditions that must be met in order to charge a particular cost. Whereas the old circulars the selected items of costs were the appendices, now those are contained in subpart E.

The appendices are where indirect cost exemptions and the cost principle for hospitals are contained. Now, as we mentioned before and we had the quiz item, the Uniform Guidance applies across the board to all entity types.

What could not be reconciled in one document was how to handle indirect costs for the different entity types. Therefore, you have a different appendix for each type of institution that addresses indirect costs. So if you are an institution for higher education, you're going to be looking at Appendix III. If you're a non-profit, Appendix IV, a government, Appendix V, Appendix VI, public assistance cost allocation plans.

If you are a state, local, or Indian tribe, you're going to be Appendix VII. Appendix VIII is a very special group of non-profits that are very large. They almost are like for profit, and they're actually listed by name. So if you're one of those, take note. And Appendix IX is the hospital cost principles. Hospitals were not incorporated into the Uniform Guidance.

Then we move over to subpart F, which is the audit requirement, and it also contains two appendices. The appendices address the standardized data collection form or the SACS, as well as the compliance supplement that provides the audit structures for your independent auditors under the Single Audit Act. The 2015 edition of the compliance supplement was just issued in June of 2015.

So OMB published – when we all the agencies came together to adopt the Uniform Guidance, OMB gave us one year. That was published on December 19th, 2014. It's a very long document, and in the beginning of that OMB included a long list of technical corrections to the document published in 2013.

And so it's important. We wanted to make you aware that there are grace periods for the procurement standards. We clarified that there is no unique entity identifier from OMB yet. We're still using the DUNS number. We clarify/modify total direct costs and payments, cost sharing and matching in program income. And one of the big things they talk about and they clarified because there were lots of questions is around the use of should versus must.

As many of you know, especially those involved in compliance, the words have very different meanings, and OMB wanted to be sure people reading the Uniform Guidance understood if there is a must listed, it is a must. If there is a should, that was intentional and it's an encouragement. And we're going to highlight the places, for example, in internal controls where should is used, for example, in following the Green Book.

Then we go to the DOL exceptions. When DOL adopted the rule, there were 21 exceptions. This also includes our adoption or official notice. We're going to cover some of these key provisions when we go through the major changes. So when you make – when you download 2 CFR 2900, you can go just to the section that covers Department of Labor. You don't have to download the entire document with all the other 26 agencies.

All right. And with that I am going to turn it over to Steve, who is going to start talking about some of the major changes brought about the guidance. And before I do, I just want to say we are going to take a couple of breaks about – with questions. So if you have questions as we go, please enter them into the chat, and we will do a couple of breaks and then at the end come back to questions.

MR. DANIELS: Well, thank you very much, Maggie. Let's take a look at some of the changes in the Uniform – well, let's just not look at the changes. Let's look at the really big change, the really big, big, big changes, things that are going to really move you, things that you really need to know that are going to grab you.

All right. So let's take a peak first at definitions in subpart A. The definition section is a significant move from how things were organized and structured under the old circulars. In the old days definitions used to be interspersed throughout a circular. Now, they're all in one place, and I got to tell you being there at some of those COFAR meetings, something as simple as this and logical as this ended up in great debate.

After all, we're federal employees, and we must debate before we make a decision. So the definition section's fabulous when you have a chance to look through it. It consolidates all in one place. It clarifies, and if you were to look back at some of the other definitions between the uniform administrative requirements, between government, institutions of higher education, and non-profits, as well as the cost principles, there were some differences in how we defined various type of items that we have listed today. It also deletes some definitions, and some new ones have been added in. We've also got exceptions that we're going to talk about as we go throughout the document here today.

A little story about our exceptions. The exceptions, as Maggie mentioned to you before, are found in 2 CFR 2900. That didn't happen by happenstance. That was extraordinarily premeditated, and it was fraught with deadly dangers like trying to diverse a swamp in Southern Louisiana.

At first when we went to pursue our exception part within Title II, we went through our normal processes and channels as a federal agency, and the Federal Register folks assigned us Section or Part 5880. So we wrote up all of our exceptions neatly, tucked everything into Section 5880. We submitted it through our departmental clearance, and they accepted it. It then went to the Federal Register people, and they said, Steve, what are you doing, buddy? I said, submitting our exceptions to the Uniform Guidance. They said, no. You're using Part 5880. That's taken, to which we said, oh, well, you assigned it.

So we're using what you gave us. And they said, I don't think we assigned that. We said, yes. You did. We got the e-mails to prove it. And they said, regardless of that fact, that's not your section. You get to pick another section. So we looked through the Federal Register in Title II, and we picked 2900. Happened to be free and available, and they said, you're good to go. So 2 CFR 2900 is our part of Title II for our exceptions to the Uniform Guidance.

We've got a wonderful resource also available for you. It's an OMB crosswalk from all of the circulars, and in your slide presentation you see a nice link to that. So my recommendation is, if you want to see what the crosswalk is, please click on that link, and everything will become available to you.

Let's talk a bit about some of the definitions and the new items. Conflict of interest is addressed in Part 200.12. This requires full disclosure. So on an annual basis or as a conflict of interest arises, it's incumbent upon you as a recipient to notify us that a conflict of interest has arisen.

Procure methods – procurement methods have been well-defined, and they are to be followed. Those are found in 200.320. Please take a peek at this.

Your support for indirect costs rate basically says in part 200.414 you must have supporting documentation for all of your indirect cost items, as you would for any other cost, meaning direct cost.

The de minimis rate is brand new. That's also defined and outlined in Section 200.414. The de minimis rate – well talk more about this later – is available to those particular entities that have never had a rate before.

Computing devices, this is significant and new. In past cost principles and administrative requirements, computing devices in and of themselves was not recognized. Now, it is. So now, under 200.94 some computing devices can be defined as and classified as supplies, and that's important for most organizations because very few individual computers today are going to rise to the level of your capitalization threshold, which in many instances $5,000 or more. If it doesn't rise to that level, it's treated as any other supply.

Now, you've got to remember if you're building, for example, a computer learning center and you're buying multiple desktops or laptops that are tied into one central system and you're capitalizing that and you're counting in all those computers as one item, then it is in fact one item and you can't break it out.

You can't change your accounting system and process midway through so that you can count it as supplies and then just dispose of it as opposed to going back to your awarding agency for disposition instructions. The definition of computing supplies – or computing devices is now found in 200.20, and in the cost principles computing devices are located at 200.453.

One of the big areas that this administration, the current president is pursuing aggressively is the area of improper payments. In fact you may be aware that the Improper Payments Act was originally sponsored by President Barack Obama and another Republican congressman or senator from Arizona, Mr. McCain. Well, your collection activities under improper payments are now an allowable expense under Section 200.428.

And of course COSO's now been recognized, and that's the Committee of Sponsoring Organizations of the Treadway Commission. And that establishes standards for internal controls.

Some other new definitions revolve around budget at 200.8. It's now clearly defined and the language has been tightened up, indicating it is a financial plan. You can modify it. You can change it, and you report against you budget.

Contractors too are talked about, and as Maggie mentioned just before, vendors have been deleted and this language is now consistent with A-133, which of course now is subpart F of the Uniform Guidance.

Fixed amount awards are discussed, though here in the Department of Labor we typically do not do fixed amount awards, nor would we expect to see fixed amount subawards, which are authorized under the Uniform Guidance with prior approval from your federal awarding agency.

Internal controls are something that has great significance these days. Our codification of internal controls and the shift towards internal controls has its deep roots going years and years back, and you probably recall the Enron fiasco some years back, the WorldCom collapse, as well as Tyco. Those public entities whose collapse and demise resulted in the Sarbanes-Oxley Act, which is really governs independent organizations' internal controls, has shifted.

And now, within the governmental organizations we have something called A-123, and internal controls is something that's fairly new and well spelled out in your new Uniform Guidance as it relates to having strong internal controls and it is a process – importantly, it's a process to assure accountability over your federal funds. So again, our internal controls is a process to assure accountability over federal funds.

Continuing on with some new definitions, we've now made under procurement micro-purchase levels available. In the rules under procurement, you'll see this micro-purchase level. The micro-purchase level – micro-purchase level is $3,000.

Again, we've talked about modified total direct cost. There is a change in our definition of modified total direct cost. It does show up in the technical corrections that Maggie had mentioned that was published on 12/19/2014.

And modified total direct cost under the technical corrections does no longer contain subcontracts. If you were to look at past cost principles under modified total direct cost, subawards – that is subrecipients and subcontracts – were a part of modified total direct cost.

A non-federal entity is basically anyone but a federal agency. This is very clear because within the Department of Labor's 2900 exceptions, we also have extended applicability of the Uniform Guidance to all for-profit entities and foreign entities.

There's a good discussion in PII and protected PII.

The simplified acquisition threshold as it relates to certain procurement requirements and that particular level is $150,000 is an important area because there are changes involved under procurement as we look at micro-purchase requirements and once you reach the simplified acquisition threshold. There's a bunch of appendices that need to be included in your contracts that exceed $150,000.

The pass-through entity of course is our prime recipient. Your pass-through entity would be one who receives direct dollars from a federal agency.

And again, subawards. Sub-awards are subrecipients, and those are the folks who do programmatic work. And we'll have a little bit more on differentiating our subawards from our subcontractors in a few moments.

Let's take a look at something else that we've had a number of questions on over the last couple of months. Maggie Ewell and I, as well as the various regions throughout the country – and we have six regions within the Department of Labor – we've gone throughout the country and worked with each one of our regions and have made presentations on our smart training. Our smart training contains 22 different modules that does a deep dive into the significant changes of the Uniform Guidance. We get questions continually about merit review. Let's talk about that for a moment.

Merit review is outlined in the funding opportunity announcement. Merit review indicates that the agency will specify those criteria under which you're going to be evaluated under a discretionary grant award application. In addition to that, if you're looking at a funding opportunity announcement and you see that an area or a category is worth f points and another area of your application could be perhaps worth 30 points, I would encourage you to look very closely at the 30-point category and do a thorough job of addressing the evaluation criteria that's going to be weighted and reviewed under the merit review portion.

Sometimes we see applications where that 5-point area has six pages dedicated against it. It's a thorough, thorough explanation worth 5 points and kind of a brief answer addressing a 30-point area. So again, a heads up is to look very closely at what the merit review criteria are going to be. Appendix I of the Uniform Guidance also supplies additional detail.

So as we take a look at grants here at the Department of Labor, applications, we must first complete a merit review. That is an assessment of your grant proposal against the items that we've outlined of how we're going to review that grant proposal. Then we conduct a risk assessment.

This is now required within the Uniform Guidance that we conduct a risk assessment, and it is conducted after we do the merit review. And you can see the various things that we're going to look at. Importantly for you to understand is when the Department of Labor completes its risk assessment, we're going to look at everything that's available to us and everything that's open to us, and this is also outlined in our exceptions to the Uniform Guidance.

That is if you had an A-133 audit completed, we're going to look at that. If you had a monitoring report done and completed within your organization, we're going to look at that. So any piece of information that is available through public websites such as FAPIIS or SAM, the do not pay list, our internal documents are going to be looked at to see if your organization poses a risk to our dollars that we may award.

OK. So with that let's move on and see if Maggie can't tell us a little bit more about our standards for our financial systems.

MS. EWELL: Thanks, Steve. All right. So 200.302 covers the financial – standards for financial management systems. States will continue to use and expend the federal award in accordance with the state policies and procedures. However, all of your systems must be adequate for report preparation and traced funds to a level that establishes such funds that are used in compliance with federal regulation.

So what does your system have to have? You have to be able to identify all federal cash receipts and expenditures, and what is new here is they include the Catalog of Federal Domestic Assistance number. So in addition to being able to identify your different grant streams, you are linking the CFDA number to that as well. You are going to have to be able to compare expenditures to budgets and performances.

Performance is woven in here now, and this should be done often enough to ensure compliance. And finally, written procedures for payment and allowable cost. Now, before this wasn't specified that they had to be in writing. However, I know many of you get – our staff come out and monitor you from the regions, and you probably have had a finding if you haven't had written policies and procedures. We like them. They are what makes us sure you're in compliance.

This is the first time, though, that the circulars, now the Uniform Guidance, state specifically that you must have written policies and procedures around payments and allowable costs sufficient to implement the payment requirements and determine allowability of all costs charged to the award. That would be both the federal share and then if you are going to have match, and we're going to talk about some of the match documentation as well. So this is all part of your internal control system.

And now, if we look at 200 Section 303, this is the new section on internal controls. This should be dog-eared, highlighted, flagged. This is a place you're going to go often. The Uniform Guidance moved internal control from the former audit circulars and the compliance supplement up here to be with the administrative requirement.

The lack of internal controls is a frequent audit finding and a frequent finding for our DOL monitors. The COFAR believed that moving this requirement to the administrative section and placing emphasis on strong internal control systems would help mitigate the risks of waste, fraud, and abuse of federal funds. The internal control section has been substantially updated and now suggests that internal control systems be in compliance with the standards for internal control in the federal government issued by the comptroller general.

That is our Green Book – so that is in the list of acronyms – as well as the internal control integrated framework issued by the Committee of Sponsoring Organizations of the Treadway Commission, otherwise known as COSO.

In addition, you as a non-federal entity or grantee must comply with rules and take reasonable precautions to safeguard information. Internal control requirements are covered in greater detail in a module we are preparing for – actually, it is online; correct, Dante? We have an online training on internal control.

DANTE: Yeah. That is posted on Workforce3One.

MS. EWELL: Right. So on Workforce3One is a module just stand alone 60 minutes on internal controls.

So the requirements for IPERA, the Improper Payments Elimination and Recovery Act, are woven into Section 305. They've been incorporated into rules on payments along with the cash management requirements of the previous circulars. So it's important that you understand that under the previous Workforce Investment Act, interest income was treated as program income, and this is going to continue.

In effect it's for as we do this WIOA implementation, and you'll have to follow the final rule for final guidance. And we also in DOL have an exception at 2900.6 that puts some restrictions around payments. So if you are advancing to recipients, you are restricted, unless specific conditions exist. Additionally, we want to see that advances are liquidated prior to requesting additional cash. This was a very common audit – excuse me – monitoring finding from our regional monitors.

As I mentioned when I first started talking, cost sharing was an area that has seen significant changes not in what it means but in the higher standards for documentation. So if you have a match requirement or if you are leveraging resources and wish to report it on the 9130 so it would be available for stand-in, you have to meet the criteria in 200.306, which states that all matching funds must be verifiable through adequate records.

You must be documented in your accounting system the same way your federal funds are, and that you've ensured that the cost that funds were spent on were allowable. 2900.8 requires that contributions received from match be expended on program purposes. So the key thing for us is that funds must be expended to be counted as match.

So we've seen some pretty major changes to budget and program plans. So if the federal award is over the simplified acquisition threshold – that means $150,000 – I believe pretty much everybody on this call is – now, you have the flexibility to change your budget. Now, this is mostly for discretionary grants, as our formula folks don't have a 424A on file with us.

But for discretionary grants with a 414A, you have your different line items, and previously you had line item flexibility, which allowed you to make changes amongst the lines up to 20 percent, with the exception of personnel, fringe, and indirect. Now, under the Uniform Guidance you do not need prior approval if you are making any changes to any line so long as it is less than 10 percent of the total award budget.

Said another way, prior approval is needed for any cumulative change to the budget line item that exceeds 10 percent of the total budget. If you have $1 million grant, that means if you move around $101,000 amongst any of the different lines, you would need prior approval. Before that you could move $20,000 between supplies and equipment, another $40,000 between personnel and fringe. Those would no longer need prior approval until you hit the point where you're getting to 10 percent of the award. So that is a fairly big change.

Another thing we want to point out is that the Uniform Guidance talks about budget approval and approved budget in many places throughout, if it's part of your approved budget. And our DOL exception 2900.9-12 lays out some more specifics about what approved budget means for DOL. And we also clarify that the budget that is issued with your notice of award is not considered approved for the purposes of prior approval in any – in many places in the Uniform Guidance.

It is the budget you work off of. It is what we use for the budget flexibility. However, if you have equipment in that budget, your equipment does not have prior approval just because we issued you a budget in your grant award. Additionally, we specify that you requests for modifications must be submitted in writing 30 days prior to the anticipated need. So if you anticipate your budget realignments exceeding the 10 percent mark, you need to submit that 30 days in advance.

And the only person with the authority to approve is the DOL grant officer, unless otherwise specified in your grant agreement. So if you talk with your FPO and they say, looks good, that is not approval. The only budget approvals or prior approvals are issued by the grant officer, and it's issued in writing via modification to your grant. So again, these are codified 2 CFR 2900.9-12, and that addresses all of the prior approval specific DOL requirements.

Finally, 200.309 discusses the period of performance, which talks about the beginning and end dates. This is important for when we get to closeout and we get to liquidation.

So then we want to talk for just a minute about property standards, and I did see a few questions come in. The property standards in the Uniform Guidance have been primarily adapted from A-102, and they're found at 2 CFR 300.310-315. They cover real property, federally owned property, equipment and disposition, supplies, and intangible property. And we have a DOL exception at 2900.13 regarding intangible property.

Steve had talked a little bit about equipment. We're going to get into that separately. The Creative Commons licensing applies to our discretionary grantees, and facilities and lease agreements is a very complex subject. We will do our best to answer the questions, but we actually do have a whole 90-minute presentation on capital assets, which include equipment, supplies, intangible property because it is so complex and there have been changes.

User fees have been eliminated. You need to use appraisals and market value. Depreciation is limited in certain circumstances. So you – there are some significant changes there. We're only going to have time to touch on them today.

The next area I want to cover is procurement, and this is another hot-fed issue with a lot of regular monitoring findings. So we're going to spend a couple of minutes on this. First, states will continue to follow the state standards for procurement, but the big change is that all other non-federal awardees – that includes subrecipients of states.

That includes local governments, colleges that are considered a government entity – you must have procurement policies and procedures that are consistent with the Uniform Guidance standards at 200.318-326. These are primarily adopted from A-102, and this is because OMB and the COFAR felt that A-102 was more exact including those methods of procurement.

So what are some of the new things that are very exciting? Micro-purchases, I've been doing training for over four years, and every session I would get a question asking if we recognize micro-purchase authority because their organization had a policy on it.

And I said, well, technically no. We only have the simplified acquisition threshold. So we have finally caught up with the times and we have a micro-purchase threshold of $3,000, which means that you can go ahead and buy pens but you have to vary your source. That is the condition in the Uniform Guidance.

Conflict of interest has been greatly expanded, and specifies relationships and requirements to avoid conflict. And it requires written standards.

The simplified acquisition threshold is now linked to the FAR, the Federal Acquisition Regulation, which is exciting because last time the FAR changed and our reg listed just the number and we had to catch up. So now, it is linked, and the simplified acquisition threshold is tied to the level of procurement rigor you need. So it's important.

Also want to mention consultants. This is another common question I get in my trainings. Consultants are now mentioned, and I want to make sure you understand that the language in the Uniform Guidance says, "The awarding of non-competitive contracts to consultants is considered to be a situation restrictive of competition." So many times we get questions of, do I have to compete my consultant? Well, you're going to have to look at what amount it is, whether it's under the simplified acquisition threshold, and you have to ensure that you're meeting the intent. Again, you don't want to bypass the competition requirement.

So then we get into the major contractual provisions. There are 10 provisions in Appendix A that are linked to whether your contract exceeds the simplified acquisition threshold. It is really important to make sure you use the December 19, 2014 version, Appendix II, not the 2013 version, as there were some changes to those provisions.

We also received a question early on that I'm glad they mentioned about does the procurement sections apply to subawards or just subcontracts. The Uniform Guidance includes very clear definitions about subaward 200.92 and 200.93, and it also defines vendor at – got to flip my page again quickly – excuse me – contractor.

And then in Section 200.330, which Steve is going to talk about with subrecipient or contractor termination, they do lay out clearly that subrecipients do not follow procurement rules, and in fact, even if you call an agreement between yourself and a subrecipient a contract, the terminology is not what defines the relationship. It's what the activities are, and so Steve's going to talk about that more in his section. And I'm going to turn that over to him.

MR. DANIELS: All right. Well, thank you very much. I know you're all wondering now. You're there with baited breath saying, all right, Steve. So talk to me about subrecipient monitoring. It's something I've been hearing about. Yeah. There's changes in here.

Before we get into that very deeply, though, we have to understand there's a difference between our subrecipients and our subcontracts. And as Maggie had mentioned, Section 200.330 walks you through the determination and the difference between a subrecipient and a subcontract.

In short, a subrecipient's performing programmatic work. Again, as Maggie had mentioned, with the subrecipient you don't need to follow your procurement procedures. If it behooved you, you could simply appoint somebody and designate someone as your subrecipient. We're not encouraging that. We're simply saying that that's something one could do. So we certainly do encourage procurement activities even as it relates to a subrecipient.

Your subrecipient's carrying out programmatic work. They're doing the work that you're doing, and you've appointed them as a subrecipient. Importantly, if your subrecipient fails, they are carrying out programmatic work. Chances are your grant will fail.

A subcontractor, a contract under grant is simply somebody who's providing you with routine goods and services, and that could be something as simple as the organization that you've hired that takes care of the facilities and collects the trash and that sort of activity. Perhaps it's your paper supplier or someone along those lines. Again, it's the provision of your routine goods and services.

So what are some of the subrecipient monitoring changes? Well, importantly, the new guidance outlines clearly that you're responsible for monitoring your subrecipients. That makes you then a pass-through entity. When you go ahead and move forward with a subaward and you've properly identified your sub as a subaward not a subcontract, then there are certain things that you need to make sure you're including in your agreement such as your award number, what it is specifically that the subrecipient is going to do and carry out.

Before you make that award to a subrecipient, you must also carry out some sort of evaluation and assessment as to whether or not that subrecipient poses a risk that they may not be financially and fiscally sound and may not be able to carry out the programmatic work. There are other pieces of information under FFATA, the Federal Funding Accountability and Transparency Act, that you as a pass-through entity, especially if you're a prime recipient, must populate into your U.S.A. spending website.

Some information is pre-populated for you, but you're going to need to make sure that your award number shows up, your award identity number, the DUNS number, the CFDA number, the amount of the award. So some information that's outlined in the Uniform Guidance is also covered under FFATA that must be reported in your U.S.A. spending.

You've got to monitor your subaward activities, and you've got to make sure that you understand that, as it relates to A-133 audits, if your subrecipient expends in the old days in excess of $500,000 a year, under the new Uniform Guidance $750,000 a year, that you're the organization responsible for resolving those audit findings. That is you just issue the management letter. Importantly too there's been a significant piece of clarification as it relates to indirect cost.

We heard from many, many organizations throughout the country when we had our Proposed Uniform Guidance Rule Making, and overall, organizations were saying, we have an indirect cost rate agreement. It's an approved rate agreement with a cognizant agency, yet my funding agency does not allow me to collect my full indirect cost.

The Uniform Guidance is clear. The FAQs that were issued are clear. If you have a negotiated indirect cost agreement with a cognizant agency, you have the right to your full indirect cost. As a pass-through entity you must honor that with your subrecipients. If they have a negotiated rate, you must honor their indirect cost in full.

Some of the other major changes are remedies for non-compliance, and there's an expansion of some of the enforcement actions and options, hearings, and appeal options. As you proceed down through that line, if you have questions that you need to have answered, always reach out to your federal project officer.

The Uniform Guidance also speaks as it relates to requirements for termination for cause and for convenience. That is bilateral termination and unilateral termination. We also have a discussion within the Uniform Guidance on the effects of suspension or termination. It's fair to tell you now that previously within the Department of Labor we have not actively pursued those organizations that have significant findings that have been found guilty of fraud, waste, or abuse through any suspension or department activities.

The Department of Labor is standing up their own suspension and department group and will be aggressively moving forward with those organizations who have been found to be guilty of any substantial waste, fraud, or abuse, and we will move towards suspension in department of those organizations or individuals.

At 2900.17 we talk about adjustments to your indirect cost. That adjustment would be if we find, for example, that within your indirect cost pools there's an unallowable cost and probably not up front but after your provisional rate is provided and you're moving to a final rate, if we see that an unallowable cost has popped up or been identified, we want you to know that we're going to reissue your indirect cost rate agreement and make it available to all other federal agencies.

.413 has a wonderful discussion regarding direct cost and what can be charged as direct cost or indirect cost. Let's be aware also that under WIOA and under the NPRM that you've all seen, that our WIOA statute and the NPRM also addresses the requirement that recipients under Title I, Subtitle B, C, and D, though Subtitle C does not apply to us since that's Job Corps and that's typically contractors, you are accountable also to track all of your expenditures as either program costs or administrative costs.

Section .418 talks about some differences in the two, and of course there are numerous appendices as it relates to indirect cost that Maggie had spoke about briefly before. Make sure you look for the correct appendices when you're going to apply for indirect costs because the requirements are slightly different depending upon whether you're a non-profit or you're an institution or higher education or a governmental agency.

So though we talk about indirect cost rate agreements, we at the Department of Labor also recognize that some departments within a state may have a cost allocation plan. If you have a cost allocation plan currently in effect, that's fine. You can maintain your cost allocation plan.

Let's speak for a moment about the de minimis rate. We've had numerous calls come in, and as we've traveled throughout the country and talked about the de minimis rate, we've had a number of questions here. Let's take a step back for a moment and make sure that we clearly understand what we as recipients are entitled to and subrecipients.

To be clear, if you have a negotiated cost rate agreement with your cognizant agency, that is the federal awarding agency that provides the majority of your direct dollars, and you have a negotiated rate, you're entitled to that full indirect cost. So whatever your rate agreement says, you're entitled to those full indirect cost.

Likewise, if you're a pass-through entity, your subrecipient, if they have a negotiated rate with a cognizant agency, are entitled to their full indirect cost rate. But those entities that have never had a rate, never had a negotiated rate with a federal agency, you're entitled to a de minimis rate.

The de minimis rate is 10 percent of modified total direct cost. So you can charge up to 10 percent of modified total direct cost. If you're a subrecipient and you had a rate in the past and it's been four or five years since you had a rate, you have had a rate. So you must go back and reestablish a rate.

OK. Maggie, how about walking us through some of the other DOL exceptions starting maybe at 2900.2, or non-federal entities?

MS. EWELL: Sure. One of the big things that we did with our exception is OMB gave agencies the flexibility to apply the cost principles to for-profit entities and foreign organizations.

At Department of Labor we don't have that many direct recipients that are for-profit entities, but we do know of a number of subrecipients and we know that there has been difficulties in managing the FAR, which typically governs for-profit entities under the previous circulars.

Therefore, we made the decision to apply the Uniform Guidance to for-profit commercial entities. Therefore, if you have subrecipients that are businesses, for-profit entities, they now must follow the Uniform Guidance. That applies to whether you're a discretionary grantee or to whether you have for-profit One-Stop operators.

Additionally, while ETA doesn't have any grants to foreign organizations, the Department of Labor has an international affairs bureau. Therefore, DOL also made the decision to apply these to foreign entities.

I'd already touched on the multiple provisions concerning budget. We have six different exceptions, and it's very important to remember that where budget approval – prior approval is required, our grant award does not give you that approval and that requests should come in 30 days in advance. And the only person with the authority to approve that request is the grant officer.

Also wanted to make a note of outside findings. As part of our merit review proposals from grant applicants, the federal government or DOL can also include or consider not only findings stemming from a single audit but also from our own federal project officers, grant officers, or other authorized representatives as well as the Department of Labor OIG, general – is it accountability office? Yes. No longer accounting – or any other sources. So we broadened that scope a little bit.

I touched on the exceptions around payment. If an applicant is deemed risky, we can put the applicant on restrictive draw-downs right out of the gate. That may be someone who's never had a federal award before. That may be someone who has other grants with major audit findings. All of that will be looked at during the risk assessment pre-award. For expenditures, our exception reinforces the use of accrual reporting. That is when a transaction is recorded, not when it is paid. And again, we just wanted to emphasize all the ETA reporting is on an accrual basis.

In closeout we also wanted to clarify that in the closeout period obligations and/or accrued expenditures may be liquidated. It is important for ETA grantees to understand that, with one exception in the unemployment insurance world, all of our grants are expenditure period, which means you can only liquidate accruals. You cannot enter into an obligation on the last day of your grant and liquidate it. You have to have received that benefit prior to the end of your period of performance.

And then finally, our exception on intangible property. Those folks that are in the TAACCCT world or H1B grants are very familiar with this. We started this about three and a half years ago. For our discretionary grants, the Uniform Guidance now requires, if you develop intellectual property, that it will be registered through Creative Commons, which allows sharing and use.

Finally, indirect cost rates may need to be renegotiated. I believe Steve touched on that. 2900.18 we put in some contingency provisions around the fact that you may need to transfer records or prepay for record storage, whatnot, for orderly closeout.

And then finally, we wanted to make sure that the audit resolution and management decision provisions were expanded to include the steps for resolving an audit or obtaining a management decision, including the initial determination, final determination, hearing, and appeals steps.

MR. DANIELS: So, Maggie, gee. This was wonderful. You walked us through these 22 different exceptions we had. And working with you and Dante on your team here recently, we had the 22 exceptions and I thought they were brilliantly written, extraordinarily well executed, but you know what? We had feedback, and we had an unbelievable 10 technical corrections on our 22 exceptions. Can you believe that?

MS. EWELL: It's called a typo.

MR. DANIELS: Called a typo. Hey, any idea when our recipients are going to see in the Federal Register our 10 technical corrections?

MS. EWELL: We are actually moving through the clearance process to have those published right now.

MR. DANIELS: Oh, excellent. So maybe by the time it gets to the Federal Register and clears our Department of Clearance, maybe end of September-ish?

MS. EWELL: I might tack on another couple months.

MR. DANIELS: Another month or two? OK. So that was wishful thinking from a bureaucrat.

MS. EWELL: It was.

MR. DANIELS: OK.

MS. EWELL: Excellent. All right. Well, at this point I wanted to do a quick pause. We have gotten a number of questions in. I will warn you we're not going to be able to answer all of them. Some of them are very technical and we just don't have a ton of time but we're going to take a stab at the ones that we can.

So first we had a question related to my presentation on micro-purchases. Someone wanted me to expand on what I meant by varying sources. In Section 200.320, which outlines the new micro-purchase authority, the quote from the Uniform Guidance is, "To the extent practical, the non-federal entity must distribute micro-purchases equitably among qualified suppliers." So that's my expansion.

All right. For – we had a question around the difference between the requirement for keeping track of equipment versus other property items, such as computers or portable items less than $5,000. So 200.313(d) 1 through 5 covered how property records must be maintained and what they are. You'll notice that in supplies, 314, there is no equivalent list.

However, if you read the internal control section and you have good cash management practices, you will see that in policies and procedures under internal controls in our smart training, if you take it online, we strongly recommend that you have inventory for your supplies, computers having labels and tracking, if you maintain any gift cards for bus tokens for supportive services.

Anything with cash value should be tracked as part of the cash management internal control system. So while we don't have the specificity of the property records at 313 and it's not covered in 314, I think if you read the internal control, you'll understand what we're going to be looking for.

We did have a question on what we do for rent, since we're no longer using a use allowance. So rent covers when you are not the owner of the building. So if you own that and you want to charge, you would – yes. You cannot do a use allowance. So you would actually have to use depreciation for your part of the building. I do want to point out also for rent and fair market values, the Uniform Guidance is more strict. It is calling for appraisal if you're using – especially in the realm of match, it requires appraisals to equate value. So just keep that in mind as you're going. You can't just take people's word for it.

Someone did have a technical issue with the – looking up the Uniform Guidance. I did want to encourage you to use the – I think it's called SDFYF system to go into – to get to CFR 200, not the Federal Register page. They're different places, and that might address some confusion.

We had a question about time and effort reporting, and is it really – are time sheets really no longer required? We do have a whole presentation on personnel compensation online as well. If you look at Section 200.430(i), it covers the standards needed and documentation for personnel, and time sheets are no longer required. However, I will caution you. The standards are still there. You have to be able to ensure that the costs are allowable and allocable to the grant, but time sheets are no longer required.

MR. DANIELS: Maggie, this is a great question this person submitted. We get this question a lot when we've traveled the country, and what we typically would say is, if you've been using time sheets and it's worked for you and you've gone through your internal audit and your A-133 audit, why would you change?

So while it doesn't specifically spell out time and effort reporting, your payroll system must have in place strong internal controls, which would require a second-level review by someone who's aware of the actual time and effort that you're putting forward on your validated time sheet. So good question and great answer. Thank you.

MS. EWELL: Great. All right. So the next question we got was, "Can the state restrict the Uniform Guidance without effectual waiver? Can the state redefine the small purchase to a lower level?"

So the first part of your question is it depends on which section. Some sections of the Uniform Guidance defer to state. Others do not. For the specific question that you raised around it looks like under procurement, the answer is yes because the uniform guidance says states follow state policy. So the state can enact whatever they want in terms of procurement.

Let's see. "How will merit review affect formula grants?" That's a process we're working on.

MR. DANIELS: Yeah. Right now, there's probably not a significant impact to individual states because we really do have to make our awards to our state, but certainly one doesn't want to have a bad review come up. If something like that occurs, you really do subject yourself to increased monitoring and oversight by the Department of Labor.

MS. EWELL: Right. All right. We had a question around my presentation on the budget flexibility and saying, "Is this cumulative? Can you move $10,000 10 times but not 11?" Yes. That is correct. When you get to the eleventh, you would need to request the modification for approval to make that eleventh move. And then once you get that approved, new SF 424(a), it starts over. So then you can do 10 more transactions. When you get to the eleventh, you would have to do another.

"Regarding match, can they record in books of records, or can they be tracked in a form, for example, an Excel spreadsheet?" The Uniform Guidance indicates it must be in your accounting system, and so that's something auditors will look for as well as our monitoring staff.

"Under property standards, computer equipment, does equipment include software in excess of $5,000?" I was going to look that one up.

MR. DANIELS: Yes.

MS. EWELL: Yes. It does. Thank you, Steve. I don't have the exact citation for you, but the Uniform Guidance, as I mentioned, caught up with the 21st century and addresses software, IT, information systems, computer devices, et cetera.

We do have several WIOA questions, and I will let you know that we don't have a final rule. So you will need to look to the final rule, but one thing to keep in mind is that statutes supersede regulation. Therefore, if the WIOA statute and its corresponding regulation impose a requirement that's in conflict with the Uniform Guidance, the statute trumps the Uniform Guidance. So I'm not going to address any other WIOA questions in specific, but look for those. Look for our operations guidance. Contact your FPO.

Nineteen, "To what degree do we have to monitor subrecipients and internal controls?" My answer, to a very large degree. You are responsible for your subrecipients. The Uniform Guidance breaks it out in extraordinarily strong detail, and you have to remember you are the one we have a relationship with. If there is something wrong with them, you are accountable.

MR. DANIELS: And a good tangent to that too, Maggie, is Uniform Guidance, when they flow things down to their subrecipients, the Uniform Guidance in its entirety also flows to the subrecipients and every level thereunder. So I think just as an add, every subrecipient level you have, the guidance flows down.

MS. EWELL: OK. So we have several questions on indirect cost rates and cost allocation plans. First, "Is it allowable to negotiate a subrecipient around indirect cost rates during negotiation?" The Uniform Guidance indicates that if your subrecipient has a federally approved rate or would like to use the de minimis rate and meets the requirements, you must accept that. They can request to negotiate with you.

Another question around non-profits with discretionary grants that use cost – with a subrecipient for states that use cost allocation plans, "Why is this not addressed?" That is a complex issue. The Uniform Guidance went in the direction of if you have the multiple streams, you should be using a federally approved indirect cost rate, if you have direct federal funds. The answer is a bit more complicated than that, and we will be having separate trainings available on that.

The de minimis rate, "The slide said an organization does not currently have a negotiated rate to use de minimis, but Steve said they must go back and get it reestablished. Which is accurate?"

MR. DANIELS: Yeah. So if you have never had a rate, you're entitled to the de minimis rate. If you have had a rate in the past, then – and it's gone bad, then you can no longer use the de minimis rate, if it's expired. You got to go back and renegotiate a rate. There is a significant anomaly in the thought process, and that is, if you had a rate before in the past and for whatever reason that lapsed and now you no longer receive direct federal funds, you're in a bad situation because you simply can't go negotiate an indirect cost unless you have a direct federal funding stream.

So that's an anomaly that we haven't worked out. Fortunately, there aren't very many instances of that. So to claim the de minimis rate, the guidance is straightforward, and it's very clear that you can never have had an indirect cost rate agreement. So if you've never had one, you're entitled to it.

If you've had a rate, you're no longer entitled to the de minimis rate. If you're no longer directly federally funded, then you're going to have to negotiate a rate agreement with your pass-through entity.

MS. EWELL: All right. So if you have never had an indirect cost rate but have had a cap, you would qualify for the de minimis. No? Yes? I'm looking at Steve. We may have to follow up with our cost information analyst.

MR. DANIELS: Yeah. We'll have to follow up on that.

MS. EWELL: OK. Quick question about, "If there's a difference between the Uniform Guidance and the FAR, which should be used?" We will no longer be using the FAR for federal awards. Therefore, any entity that you have a grant or a subgrant with, including for-profits, you use the Uniform Guidance.

We do have a couple of specific procurement questions and a question for the state of California. I'm sorry. I can't answer those at this particular time. Please submit those to your federal project officer. I don't have enough information.

"Can you confirm the budget modification is less than 10 percent of the total award amount?" Yes. It's across categories.

Just trying to get to a couple more questions before we finish up our presentation. "If it's a micro-purchase, are you still supposed to have a list of qualified vendors to distribute equitably? I thought micro-purchase was set to a level to be able to make immediate purchases and not have to go through a cumbersome bid process." The Uniform Guidance says what it says. Beyond that, you have to have policies and procedures in place governing your interpretation and application of the micro-purchase process.

All right. With that I'm going to switch back now to try to finish our – oh, there was one question I was – it's a good segue. Can we go back up to the questions? I'm going to answer it. Go back up. Where did it go? Up a little bit more. Now, I'm just delaying things.

All right. The question was about I heard that I could do a modification and have these new fun budget provisions apply to me. So let's go into implementation. We issued TEGL 25 – oh, we didn't do our true or false. Oh, I apologize. OK.

All right. Let's do the first poll. OK. The Uniform Guidance is divided into six parts.

MR. KEATING: OK. Just like earlier, as many of you are already doing, just go ahead and click the radio button for true or false for this question. I'll give you a few more seconds. So go ahead and vote now, if you haven't already done so.

MS. EWELL: All right. So we have most people saying true. Can you go ahead and broadcast the results? All right. Great listening, everyone.

All right. So let's go to the next one. Subpart B contains all the definitions. What do we think? All right. Correct. It is false. Subpart A.

All right. The simplified acquisition threshold is currently set at $150,000. All right. Great. That is correct. It is $150,000.

And then finally, internal controls are now defined as a system of oversight. All right. This one is actually false. And now, if you remember, in our definition sections we now define internal controls, and it is, "A process to assure accountability over federal funds," 200.61.

OK. All right. Now, we're going to move into implementation. And so as we mentioned, one of the things that's very important to remember is that the Uniform Guidance applies to all new grant awards or grand modifications released on or after December 26, 2014. So that means if you got your little teeny release of your formula allotment in January or February, that money is subject to the new Uniform Guidance.

The funds you got on July 1st for formula grants, your use funds from April, they are under the Uniform Guidance. If you're a discretionary grant and you've had an award prior to December 26, you are still under the old circulars. If you had a discretionary grant awarded after December 26th, you are under the new Uniform Guidance.

So what happens to the grants that you have that are under the old circulars? You have some different options. For our formula grants you may request authorization to apply the Uniform Guidance to existing or your older grant awards and funds. So that means going back to your last two years of funds that are still alive.

Now, remember the Uniform Guidance was not effective until December 26th. So we won't be retroactively applying these requirements prior to that date. It would take effect when you did your modification. So if you're a state who has new money and you must follow the new rules and you have your old money that's still following the old rules, you kind of have to have two separate sets of things going on.

For discretionary recipients you may also request a mod to change your grant over. You aren't going to be getting new money added to that, but you may get new awards. Whether they are from us or from another federal agency, any new federal award after December 26th have followed the new requirements.

So what are your options? Your first option is to submit a modification request via your federal project officer to the grant officer and request to modify your grant. You would like to remove the old circulars and 29 CFR parts 95 and 97 as well as the audit requirements at 96 and 99 and replace them with 2 CFR 200.

If you're a state, you can list all of the active grant numbers that you have. If you're a discretionary grant and you have multiple grant awards, again you can list the multiple grant award numbers. You will get separate modifications for each of them.

Your other option is to leave your old awards in place. So that would mean you would maintain and follow the old circulars, which are only now available on OMB's website because they've been superseded in the Federal Register in the Code of Federal Regulations. 29 CFR parts 95 and 97 will remain, as well as 96 and 99, which are the audit, until our last grant that still has those is closed out, at which point we will rescind.

MR. DANIELS: All right. So let me see if I have this straight. This is all very confusing. So if I got a grant award prior to December 26, 2014, the eight old circulars apply, and if I got a grant award after December 26, 2014, the new rules apply? Did I get that right?

MS. EWELL: Yes.

MR. DANIELS: So if I have a grant and it had money on it prior to 12/26/2014 and then I got more money on the same grant after December 26, 2014, the new guidance applies just to the new money, and the old guidance, the eight circulars apply to the old money? Do I have that right?

MS. EWELL: Yes.

MR. DANIELS: Unless I ask for a modification of the grant that affected the old money to bring it forward to the new guidance; is that correct?

MS. EWELL: Correct.

MR. DANIELS: All right. I think I got it. Thank you.

MS. EWELL: All right. So to modify or not modify? Let's quote from Shakespeare, "That is the question." And that's a decision you need to make for your organization.

We at Department of Labor strongly encourage you to consider this and in fact in our guidance went so far as to encourage you to move all of your grants to the Uniform Guidance. It's not going away. You now already have to follow it for the new money you've received. And really what this means, when we come out to look, we are going to have to see that you have separate sets of policies and procedures and perhaps even separate tagging in your accounting system for the new and the old.

However, we know that there's probably some nervousness about changing because it means you have to have – be ready to implement the Uniform Guidance. And if you move all your awards there and you're not quite there yet, that's a lot more findings.

We believe the reasons to modify your grant are internal controls, better to be consistent, if you're training your staff, it's going to be really hard to train staff to do one thing one way for one grant and one thing kind of different for another, and that you're at risk for some audit findings just by having some lapses. For not modifying your grant, it's you're still transitioning.

But I think for a long time before we adopted it and before people thought maybe this thing's not going to stick, and then we did hear feedback from our field that folks were waiting, especially states, until they got their new money with WIOA. We will tell you that we issued our TEGL, and we frankly expected an influx of requests for modifications, and we have not gotten many. We really actually have only gotten a handful, and so we wanted to throw up a poll.

Now that you've heard about what the changes are in the Uniform Guidance and you've learned some things that maybe make your life easier like the budget flexibility, the new 10 percent, maybe some things that make your life a little bit harder like the documentation standards, but we wonder are you going to submit a mod?

You're going to go back and say, my, God. I heard these things on a webinar. I want this now. Here's the paperwork. Or I think it sounds good, but I need to talk to some people. We're going to have some meetings on it. Leadership's going to debrief. We're just not ready yet. We're not going to be doing it in the near future. No. We're sticking with it because we got one discretionary award. It's all we got, and this is what we're doing. We already have done our mod. Yay. Thank you. Or I just don't know.

And if you don't know or you have concerns, could you please enter those in the comment window so we can see what you're thinking and we can design our technical assistance to help you or perhaps help give you the information you need to brief others in your organization?

All right. We had a couple more slides here just in the shelf. We're already over our time. I hope you can stay with us for about four or five more minutes. Two dates we want to make you aware of. The first is the procurement standards have been delayed.

So if one of your questions with not doing the modification is I'm not ready to change my procurement policy, that's going to be a lot of work with my lawyers, you have a new grace period. It is not effective. You have a one fiscal year grace period for the implementation of procurement standards. So if that is your area of concern, conflict of interest is tough, all of those things are tough, you have a grace period.

Additionally, from the beginning you have a grace period with the audit implementation requirements. It begins the first fiscal year beginning on or after December 26. So if your fiscal year started in November, this current fiscal year is still going to be under the old requirements. You would not start until November 2015.

I'm going to let Steve talk for one or two minutes on the new dollar threshold with the single audits, and then we're going to close out with some resources and key concepts.

MR. DANIELS: All right. Thank you, Maggie. There's a new dollar threshold that's outlined in subpart F of the Uniform Guidance, and it takes your minimum expenditures up to $750,000. So within your fiscal year, if you expend $750,000 more in your fiscal year, you have to do an A-133 audit.

If it's less than $750,000, the A-133 audit does not apply to you. There's a wonderful crosswalk that's been put together, and we've designed this. It's available to you as a file download here on your website that you came in for for this particular webinar. And what it does is it tells you specifically, for whatever your class of trade is, what particular old guidance documents apply here at the Department of Labor and what it's been combined into.

So as we wrap up today, we've had a good examination and a nice overview of a number of things. One is please make sure that you look very carefully at the December 26, 2013 Federal Register notification. That is the final rule. Some folks believe that the December 19, 2014 Federal Register notification is the final rule. It is not.

That is the agency's implementation of the final rule effective December 26, 2014, and that also contains the agency's exceptions to the final rule. So the final rule was published on December 26, 2013, made effective in the publication on December 19th, 2014.

MS. EWELL: Hey, Steve, has OMB finished their compilation yet, how we've asked for them to update and make available for download a document that incorporates the technical corrections into the 2013 version?

MR. DANIELS: Not yet, but it's in progress.

MS. EWELL: Awesome.

MR. DANIELS: So there should be a consolidated iteration. There is one – it's a good question too, Maggie, because there's another iteration of frequently asked questions and modifications that should be out by the end of September from OMB.

Please too also make sure that you share all the information that you have here today as well as the Uniform Guidance document dated December 26, 2013 as well as your agency's implementation here at the Department of Labor dated December 19th that appeared in the Federal Register with all of your subrecipients.

And again, importantly, the Uniform Guidance applies to all recipients here at the Department of Labor as well as the guidance document flowing down to all subrecipients. If, after this particular webinar here today, you have questions that we were unable to answer today, please contact your Department of Labor ETA regional office FPO or someone in your regional office. They'll be more than happy to help you with it. Maggie?

MS. EWELL: Great. We did have a few questions of where can I get the copies of this Uniform Guidance. Can we scroll back a couple of slides to the handout and put up the download link? This handout has the hyperlink to all of the documents. It has the technical corrections from 2014. It has the 2013 document. It links you to our TEGL and our TEN, and it also has the link I believe to the resources for understanding the Uniform Guidance published by the COFAR.

So we hope that this document will be printed out and hung up on your wall. We think it contains everything you need to get where you need to go.

I did have a couple of clarifications. One person wanted to know what I meant by new money and said, "If I have a five-year award but I get new funds each year, would that mean that any of the funds after would fall under the new G even if it's in year three of a five-year award?" Yes.

So the example I like to give is I believe there was a state that our grant officer told me got about $2700 or something in the little teeny bit that was reserved and released from WIA's second-year advance fund, and they'd kept them aside in case of a rescission or something, and then they released all those funds in January or February. That $2700 out of all the millions you have must follow the Uniform Guidance.

So again, some people have asked us, should I change, if I'm a discretionary grant and I have no other grants and my grant ends in a few months? I can't make that decision or recommendation for you. You need to look and talk about whether that make sense for your organization.

All right. We did get a bunch of questions. We are going to try to work on these and get them out to our regional offices so they would be equipped with answers. In the meantime, if you would like answers, please follow up with your regional federal project officer, and we will do our best. Be on the lookout for future trainings.

We are going to have a few more webinar series as well as online trainings. We do have a special page on Workforce3One. Brian, maybe you could type it in. I didn't put it on the slide. It's etareporting.workforce3one.org. We have about five new trainings up there that cover the Uniform Guidance, including indirect cost and cost allocation. We have procurement, internal controls, and policies and procedure and personnel compensation. Is that correct; Dante?

DANTE: I think so. Yeah.

MS. EWELL: So yeah. There it is. Can you open up? No.

DANTE: That one's specifically for the policies and procedures.

MS. EWELL: Oh, that's just for policies and procedures. All right. Thank you.

DANTE: But it's in that area. Yeah.

MS. EWELL: OK. It's in that area. So we also – again, we are fingers crossed with conference approval to have approximately seven more in-person sessions. Invitations would come through your regional offices. So be on the lookout for that as well. Thank you so much for joining us today. We hope you found it helpful.

And again, please leave feedback in the response box as to the information you need and training you would like.

(END)