



# North Carolina Community College UGG Training

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## Agenda

- Funding Updates
- Overview of the CARES Act
- OMB and OCTAE COVID-19 Flexibilities
- Uniform Grant Guidance Revisions
- 2020 Compliance Supplement

## The Funding Picture



## Perkins State Grant Funding Levels

<b>Fiscal Year</b>	<b>Funding Level</b>	<b>Percent Change from Prior Year</b>
2019 (received on July 1, 2019)	\$1,262,598,000	+5.87%
2020 (received on July 1, 2020)	\$1,282,598,000	+1.58%

## Perkins State Grant Funding Levels – North Carolina

Fiscal Year	Funding Level	Percent Change from Prior Year
2019 (received on July 1, 2019)	\$42,692,016	+5.88%
2020 (received on July 1, 2020)	\$43,398,349	+1.65%

## Adult Education State Grant Funding Levels

Fiscal Year	Funding Level	Percent Change from Prior Year
2019 (received on July 1, 2019)	\$641,955,000	+4.05%
2020 (received on July 1, 2020)	\$656,955,000	+2.34%

## Adult Ed State Grant Funding Levels – North Carolina

Fiscal Year	Funding Level	Percent Change from Prior Year
2019 (received on July 1, 2019)	\$17,716,105	+5.14%
2020 (received on July 1, 2020)	\$18,238,705	+2.94%

## President's Budget Request FY 2021

- Fiscal year that begins on October 1; sent to States on July 1, 2021
- Increase of \$680 million for Perkins State Grants, or 53 percent
- Proposes increasing H-1B visa fees and directing 15 percent of extra funds to Perkins State Grants
  - Estimated to generate an additional \$117 million

## What to Expect for FY 2021 Funding

- Due to COVID-19, upcoming November elections...
  - Likely to have an extended continuing resolution
  - Final funding levels may not be determined until early 2021
- Do not expect major increases in funding
  - Level-funding compared to FY 2020; OR
  - Minor cuts across the board

## The Coronavirus Aid, Relief, and Economic Security (CARES) Act

## Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

- \$30.9 billion in funding for U.S. Dept. of Education
- Flexibilities for education grants
- Education Stabilization Fund
  - Governor's Emergency Education Relief Fund
  - Elementary and Secondary School Education Relief Fund
  - Higher Education Emergency Relief Fund
  - Reimagining Workforce Preparation Grants (Discretionary)



## CARES Act Education Stabilization Fund

- \$13.5 billion for elementary and secondary education
  - Distributed to States, then LEAs based on share of Title I ESEA
    - 90 percent sub-granted to LEAs
    - 10 percent reserved for State-level activities
    - 0.5 percent for administrative costs (of entire grant)
  - Can be used for wide variety of federal education activities, including career and technical education

## CARES Act Education Stabilization Fund

- \$3 billion Governor's Education Emergency Relief Fund (GEERF) allocated to governors by formula
  - 60% based on population ages 5 to 24
  - 40% based on children in poverty as defined by ESEA
- Governors decide how much allocated to LEAs and IHEs
  - Based on those most impacted by pandemic and those deemed essential to provide educational services, child care
- Use of funds includes some ESSER activities, including Perkins

## CARES Act Education Stabilization Fund

- \$14 billion for higher education
  - 90 percent to be distributed to IHEs by formula
    - Based 75 percent on full-time Pell recipients
    - 25 percent based on total student enrollment
  - Half of funds received by IHE must be used emergency financial aid grants to students
  - Other half can be used flexibly to cover costs associated with changes in delivery of instruction
    - May provide additional emergency financial aid grants with institutional funds



## OMB/ED COVID-19 Grant Flexibility

## OMB COVID-19 Guidance (M-20-17) – March 19, 2020

- Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations
  - Provided short term relief for the requirements under 2 CFR Part 200
  - **Applies to All Federal Grants!**
  - OMB extended some flexibilities on June 18, 2020 in M-20-26 while most expired



## OMB COVID-19 Guidance (cont.)

1. SAM registration
2. Application deadline flexibility
3. Waiver of Notice of Funding Opportunities
4. No-cost extensions
5. Abbreviated non-competitive continuation
6. **Salary and benefits allowability (extended through 9/30/2020)**
7. Cancellation fees allowability
8. Waivers from prior approval
9. Procurement exemptions
10. Reporting extensions
11. Indirect cost rate extensions
12. Closeout extensions
13. **Single audit extension (extended through 12/31/2020)**

## ED Fact Sheet

- ED responded in part to OMB flexibility! (April 8)
- **Fact Sheet: Select Questions Related to Use of Department of Education Grant Funds During the Novel Coronavirus Disease 2019**
- Authorized flexibilities on cancellation fees and salary and benefits allowability
  - Cancellation fee flexibility has expired pursuant to June OMB memo

## ED Fact Sheet



### **May a grantee or subgrantee continue to pay the compensation of an employee paid with grant funds from ED during the period the employee is unable to work because his or her organization is closed due to novel Coronavirus Disease 2019 (COVID-19)?**

- Yes. Generally, a grantee or subgrantee may continue to charge the compensation
  - Consistent with the organization's policies and procedures re: emergencies
    - The grantee or subgrantee may amend or create a policy in order to put emergency contingencies in place for Federal and non-Federal similarly situated employees.

## ED Fact Sheet (cont.)

- However, an employee who is being paid with Department grant funds while the program grant activities are closed in whole or in part due to the COVID-19 pandemic may not also be paid for the time during which the program is closed by the organization or another organization for working on other activities that are not closed down.
- Maintain appropriate records and cost documentation.
- At the same time, recipients should consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant.

## ED Fact Sheet (August 2020)

- **Fact Sheet Regarding Contracted Services Not Performed Due to COVID-19**
- Can grant funds be used to cover the cost of approved contracted services that were not performed by a contractor because of the COVID-19 pandemic?
  - Yes, in some limited circumstances
- Check on alternative arrangements first:
  - Devise alternative ways to provide those services (e.g., teleconferencing, training via webinars, and other virtual or remote strategies for service delivery) to carry out the intent and purpose of the contracts

## ED Fact Sheet (August 2020)

- Steps if services cannot be provided in an alternative manner
  - First, seek to recover refundable and nonrefundable costs from the contractor
  - If cannot recover paid funds and contractor was ready and willing but unable to perform due to grantee's closure, should try to negotiate a reasonable compromise amount
  - No compromise = can charge the appropriate grant for the costs of cancelling the contract, provided the contract costs were reasonable and incurred in order to carry out an allowable activity under the grant
- Note! If grantee was ready to accept services but contractor could not perform due to COVID-19, cannot pay for services (would not satisfy federal cost principles)

## OCTAE Round #1 Guidance

- March 2020
- Additional time for State plan submissions while still allowing funds to flow out on July 1<sup>st</sup>
  - All States have now been approved by Secretary
- State may award subgrant without approved local application to permit obligations as long as plan is “substantially approvable”

## OCTAE Round #2 Guidance

- April 2020
- In person consultation with stakeholders not required for local application or comprehensive local needs assessment
- States not required to submit performance data on Section 113(b) core indicators for FY 19-20
- States may revise levels of performance if unanticipated circumstances for FY20-21

## OCTAE PPE Guidance

- Per OMB Memo 20-20, grantees may loan or donate personal protection equipment and other medical supplies



## Tydings Amendment Waiver

- Secretary May Waive GEPA Section 421(b) for FY 2018 funds to expire on September 30, 2021 for "SEAs"
  - Does not include State eligible agencies that are not SEAs
    - Requested by DeVos in report to Congress – no action yet
- No waiver to permit local carryover
  - Efforts to get passed by Congress but no action
  - Also requested by DeVos in report to Congress

## Uniform Grant Guidance Updates!

### OMB Updates the UGG

- Proposed changes to 2 CFR Part 200  
Published January 22, 2020
- Comments closed March 23, 2020
- Final Revisions published August 13,  
2020



## UGG Update Summary

- Procurement Changes to Better Target Areas of Greater Risk and Conform to Statutory Requirements
- Strengthen Merit Review and Improve Governmentwide Approach to Performance and Risk
- Standardize Terminology, Data Elements and Alignment with Other Authoritative Source Requirements
- Emphasize Machine Readable Information Format
- Eliminate References to Non-Authoritative Guidance
- Change Closeout to Reduce Burden and Support the GONE Act
- Expanded Use of De Minimus Rate
- Clarify Areas of Misinterpretation

## Effective Dates

- Effective as of **November 12, 2020**
  - Except for 200.216 and 200.340, effective August 13, 2020
- **200.216: Prohibition on certain telecommunications and video surveillance services or equipment**
  - Prohibits grantees from entering into contracts with certain covered entities
- **200.340: Termination**
  - Allows awards to be terminated “if an award no longer effectuates the program goals or agency priorities”
    - Previously: “For cause”

## Logistical Changes

- Updated citation numbers
  - Definitions – no longer have citation numbers.
  - New citations for procurement, record retention and more!
  - New specific items of cost have changes section numbers as well!
    - New definition for telecommunication costs and video surveillance costs (200.471) changes citations for remaining costs like termination costs, training, travel, etc.

## Pass-Through Responsibilities

2 CFR 200.331





## Pass-Through Responsibilities

- Contractor vs. Subrecipient (200.331) (new citation)
- Responsibility for Subawards (200.332) (new citation)
  - Subaward Information
  - Evaluate Subrecipient Risk
  - Specific Conditions (200.208)
  - Monitoring
  - Verify Subrecipient Has Single Audit; Management decisions
  - Enforcement (200.339) (new citation)

## Effect on Other Issuances

### Proposed change to UGG:

- Federal agencies cannot reference nonbinding guidance as part of the terms and conditions of an award. 2 CFR 200.210

### Final change to UGG:

- Agencies may impose legally binding requirements on recipients only through the notice and public comment process through an approved agency process. **2 CFR 200.105(b)**

## Specific Conditions

Risk-based specific conditions: federal agencies or pass-through entities may **adjust requirements/ grant conditions** as needed.

- 2 CFR 200.208 (previously 200.207)

## Less restrictive requirements?

Initial proposed language indicated agencies could impose “less restrictive requirements” based on risk. After comments, changed to “adjust requirements”

- Permit advance payments
- Less evidence requested on implementation
- Less frequent reporting
- Less monitoring
- Do not require prior approvals



## Management decisions, 200.332(d)

- Issue management decision only for **applicable** audit finding pertaining to the subaward from the pass-through entity
- Pass-through is responsible only for **non-systemic audit findings**
  - **Audit follow-up and management decisions for systemic issues responsibility of the “auditors and cognizant agency”**
  - **Pass-through still must “manage risk through ongoing subaward monitoring,” including follow-up on finding specifically related to the subaward**

## Allowability



## Basic Factors of Allowability 200.403

### To be allowable, a cost must:

- Be **necessary, reasonable** and **allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Be incurred during approved budget period (NEW)**

## Period of Performance 200.1

The total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award ... does not commit the awarding agency to fund the award beyond the currently approved budget period.



## Period of Performance, Budget Period, Renewal

- New definitions! May have more than one budget period within period of performance; renewal starts a new period of performance. 2 CFR 200.1
- Revisions to 2 CFR 200.309: Modifications to Period of Performance.
  - If a Federal awarding agency or pass-through entity approves an extension, or if a recipient extends under §200.308(e)(2), the Period of Performance will be amended to end at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct Period of Performance will begin.

## Period of Performance 2 CFR 200.309 (OMB Proposed deletion)

- ❖ (Previous language: allowed pre-award costs “authorized by the federal awarding agency or pass-through entity”)
- ❖ Comments: Do not delete!
- “It was not OMB’s intention to remove the pass-through entities’ authority to allow preaward costs to subrecipients. OMB recognizes these concerns and added language to 2 CFR 200.458 for clarification in response to commenters.”

## Pre-Award Costs 2 CFR 200.458

But... pre-award costs still require:

Allowable to the extent they would have been allowable if incurred after the effective date and ONLY with written approval from the Federal awarding agency

Instead, OMB added:

- "If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency or pass-through entity."



## Closeout 2 CFR 200.344 (formerly 200.343)

- Subrecipients must prepare closeout reports and final accounting within 90 days after period; pass-through entities have **120 days**
- Unless federal or pass-through gives extension, all financial obligations must be liquidated no later than **120 days** after period ends
  - Effectively limit subrecipient liquidation to 90 days??
- 2 CFR 200.343

## Direct vs. Indirect 200.413(c)

- Salaries of administrative and clerical staff should be treated as “indirect” unless all of following are met:
  - Such services are integral to the activity
  - Individuals can be specifically identified with the activity
  - Such costs are explicitly included in the budget
  - Costs not also recovered as indirect

## OMB Revisions to Indirect Costs

- Expanded use of de minimis rate (includes grantees that have previously negotiated a rate)
  - Unavailable for restricted rate programs and certain state/local gov'ts
  - 200.414(f)
- Rate agreements must be available on OMB-designated website
  - 200.414(h)
- Adds program evaluation costs as a direct cost example
  - 200.413(b)

## OMB Revisions to Indirect Costs – Pass-throughs

- If subrecipient does not have approved rate, pass through must accept:
  - Negotiated indirect rate between pass-through and subrecipient;
  - Negotiated rate between different pass-through and subrecipient; or
  - De minimus rate
  - 200.331(a)(4)
- \*SEAs must negotiate rates with LEAs: 34 CFR 76.561(b)
  - May offer flat 8% restricted rate to IHEs and nonprofit subrecipients, 34 CFR 76.564

## Procurement Updates

2 CFR 200.317 – 200.327





## Procurement Standards 200.318

- All non-federal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.
  - Open and Full Competition (Maximum Extent Possible)
  - Specific Thresholds for Purchasing
  - Prohibited In-State and Local Preferences
  - Contract Administration System
  - Conflict of Interest Rules
  - Mandatory Disclosures

## Competition 200.319

(a) All procurement transactions **for the acquisition of property or services required under a Federal award** must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

...

**(f) Noncompetitive procurement can only be awarded in accordance with 200.320(c).**

## Methods of Procurement 200.320

- Grantee **must have and use documented procurement procedures** for the following methods:
  - (a) Informal procurement methods
    - Micro-purchase
    - Small purchase procedures
  - (b) Formal procurement methods
    - Competitive sealed bids
    - Competitive proposals
  - (c) Noncompetitive proposals



## Informal Procurement, 200.320(a)(1) Micro-purchases

- Distribution. “To the maximum extent practicable, the non-federal entity should distribute ... among qualified suppliers.”
- Awards. May be awarded without price or rate quotes if non-federal entity “considers the price to be reasonable **based on research, experience, purchase history or other information and documents its files accordingly.**”

## Informal Procurement, 200.320(a)(1) Micro-purchases (cont.)

- Thresholds. Determined and documented by grantee, based on internal controls, risk, and procedures. Authorized by state, local laws. May be higher than threshold in FAR (\$10,000).
  - Nonfederal entity may self-certify threshold up to \$50,000, if:
    - Low-risk auditee for most recent audit (200.520)
    - Annual internal institutional risk assessment to identify, mitigate and manage financial risks; or
    - For public institutions, a higher threshold consistent with state law
  - Over \$50,000, must have approval of cognizant agency indirect costs

## Formal Procurement, 200.320(b)

- Used for purchases that exceed small purchase threshold (\$250,000, or lower, if set by the non-federal entity)
  - Require documented procedures
  - Require public advertising
- Two options:
  - (1) Sealed bids
  - (2) Proposals



## Noncompetitive Proposals 200.320(c)

- Appropriate only when:
  - **Micro-purchases**
  - The item is only available from a single source;
  - **There is a public emergency for the requirement that will not permit delay resulting from publicizing a competitive solicitation;**
  - The Federal awarding agency or pass-through expressly authorizes noncompetitive procurement in response to a written request from non-Federal entity; or
  - After soliciting a number of sources, competition is determined inadequate.



## Domestic Preferences for Procurements 200.322



- “To the greatest extent practicable” must provide a preference for the purchase of goods and materials produced in the U.S.
- Must include this section in all subawards, contracts and purchase orders

## So What?? What Does All this mean?



## Update Written Policies and Procedures

### Required:

- Cash Management Procedures - 200.302(b)(6) & 200.305
- Allowability Procedures - 200.302(b)(7)
- Managing Equipment – 200.313(d)
- Conflicts of Interest Policy - 200.318(c)
- **Procurement Procedures - 200.320**
- Method for Conducting Tech Evals of Proposals - 200.320(d)(3)
- Travel Policy - 200.474(b)
- Time and Effort Procedures - "essential" ED's Cost Allocation Guide

## 2020 Compliance Supplement

## 2020 Compliance Supplement

- [https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement\\_FINAL\\_08.06.20.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement_FINAL_08.06.20.pdf)
- Released on August 14, 2020
- 1,559 Pages



- The Compliance Supplement is a document that identifies existing, important compliance requirements that the federal government expects to be considered as part of an annual Single Audit required by the 1996 Amendments of the Single Audit Act of 1984.

## Compliance Requirements

1. Activities Allowed/Unallowed
2. Allowable Costs/Cost Principles
3. Cash Management
4. Eligibility
5. Equipment & Real Property Management
6. Matching, Level of Effort, Earmarking
7. Period of Performance
8. Procurement and Suspension & Debarment
9. Program Income
10. Reporting
11. Subrecipient Monitoring
12. Special Tests & Provisions

Each federal program must select 6 requirements for auditors to focus on

## Perkins V Compliance Requirements

- Allowability
- Cash Management
- Eligibility
- Matching, Level of Effort, Earmarking
- Period of Performance
- Subrecipient Monitoring

## Perkins V Eligibility

- Under Perkins V, the minimum grant for a postsecondary subrecipient is \$50,000.
- The Compliance Supplement says “An eligible institution that does not meet the minimum grant requirement of \$50,000 may form a consortium with one or more eligible institutions to meet the minimum grant requirement (Section 132(a)(3) of Perkins V (20 USC 2352(a)(3))).”



## Perkins V Eligibility (cont.)

- The CS also says “The state may waive the minimum grant requirement for eligible institutions in rural, sparsely populated areas. (Section 132(a)(4) of Perkins V (20 USC 2352(a)(4)))”
- But this is inconsistent with the Perkins V statute, which only gives the State the authority to waive the consortium requirement that it must operate joint projects providing services to all participating institutions in the consortium.
- Whenever the statute contradicts language in the Compliance Supplement, the statute controls.

## Adult Education Compliance Requirements

- Allowability
- Cash Management
- Eligibility
- Matching, Level of Effort, Earmarking
- Period of Performance
- Subrecipient Monitoring

## COVID in the Compliance Supplement

- Federal awarding agencies and PTEs are responsible for identifying COVID-19 awards and communicating the applicable compliance requirements to the recipient/subrecipient.
  - Normally this information would be in the award terms and conditions.
  - However, for COVID-19 related awards, the compliance requirements may have been communicated through an agency website and the compliance requirements may have been modified or compliance requirements not included in original terms and conditions may have been added.

## Single Audit Extensions

- Although OMB Memoranda M-20-11 and M-20-17 provide some extension for submission of single audit reporting packages for recipients and subrecipients impacted by COVID-19, both of these memoranda were rescinded with M-20-26 (June 18, 2020) and thus there is no extension for single audits for fiscal years ending after December 31, 2019.

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## Questions

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