

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION GRANT MANAGEMENT
	CORRESPONDENCE SYMBOL OMAS/OGM
	DATE December 19, 2014

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 15-14

TO: STATE WORKFORCE AGENCIES
 STATE WORKFORCE LIAISONS
 ALL ETA GRANTEEES AND SUBGRANTEES

FROM: PORTIA WU /s/
 Assistant Secretary

SUBJECT: Implementation of the New Uniform Guidance Regulations

1. Purpose. To provide guidance to Employment and Training Administration (ETA) grantees on the implementation of the Department of Labor’s “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” regulation, which goes into effect on December 26, 2014.

2. References.

- Office of Management and Budget (OMB) CFR Chapter II, Part 200, et al. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule*. December 26, 2013. <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>
- Department of Labor (DOL) CFR Chapter II, Part 2900 et al. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. December 19, 2014. <http://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-28697.pdf>
- Council on Federal Financial Assistance Reform, Frequently Asked Questions, November 26, 2014. <https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf>
- Department of Labor Training and Employment Guidance Letter 12-14, *Allowable Uses and Funding Limits of Workforce Investment Act (WIA) Program Year (PY) 2014 funds for Workforce Innovation and Opportunity Act (WIOA) Transitional Activities*, October 28, 2014.
- 29 CFR Parts 95, 96, 97, and 99
- 2 CFR Parts 220, 225, 230 (formerly OMB Circulars A21, A87, and A-122)

RESCISSIONS: NONE	EXPIRATION DATE: CONTINUING
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3. Background.

The Office of Management and Budget (OMB) has streamlined the Federal government's guidance on Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards. These modifications are a key component of a larger Federal effort to more effectively focus Federal resources on improving performance and outcomes while ensuring the financial integrity of taxpayer dollars, in partnership with non-Federal stakeholders. On December 26, 2013, OMB issued *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule* (Uniform Guidance) and gave Federal agencies one year to adopt. This new guidance, often referred to as the “Super-circular” or “Omni-circular,” is the culmination of a two-year initiative to reform and standardize the requirements for management of Federal awards (including sponsored research awards) across the entire Federal government. On December 19, 2014, the Department of Labor (DOL) issued its Final Rule entitled *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* adopting the OMB Rule with DOL exceptions.

4. Effective dates for the New Rule.

DOL’s Uniform Guidance applies to all Federal awards made on or after December 26, 2014. All new grants awarded by ETA on or after December 26, 2014, will be made according to the new uniform guidance and be subject to its requirements, as specified in the Notice of Award terms and conditions. Additionally, the new Uniform Guidance will apply to new funding actions executed on or after December 26, 2014, on existing grant awards. Grantees who receive allotments or incremental funding for an existing award on or after December 26, 2014 will receive new terms and conditions applying the Uniform Guidance to these new funds with the Notice of Award. These new terms will supersede the previous Notice of Award conditions applying 2 CFR 220, 225, or 230, 29 CFR Parts 95 and 97, and the audit requirements at 2 CFR Part 96 and 99 for the new money only.

Grantees with awards made prior to December 26, 2014, that do not receive additional or incremental funding after this date may continue to follow the terms and conditions of their awards, including the cost principles at 2 CFR 220, 225, or 230, which are archived and available at http://www.whitehouse.gov/omb/Circulars_default; 29 CFR Parts 95 and 97 and the audit requirements at 2 CFR Part 96 and 99 available at http://www.dol.gov/dol/cfr/Title_29/Chapter_I.htm. However, grantees may request a modification to their award to replace these regulations with the new Uniform Guidance, as discussed in Section 5 of this guidance.

a. Application to Formula grants. The Workforce Investment Act, Wagner-Peyser Act, Trade Act, and Unemployment Insurance formula grants are awarded for a period of performance specified in the Notice of Award, generally three years, with funding provided on an annual basis through allotments. The new Uniform Guidance will apply to all new funds awarded under existing formula grants beginning when the new funds are allotted on, or after, December 26, 2014. Because states will receive incremental or annual funding under one or more of these grant agreements early in 2015, states must immediately update their policies, procedures and systems to be in compliance with the requirements of the new Uniform Guidance at 2 CFR 200 and DOL’s Exceptions at 2 CFR 2900 pursuant to the effective dates in 2 CFR 200 and 2 CFR 2900. See Section 5 for instructions regarding modification requests to incorporate the new Uniform Guidance.

b. Application to Discretionary grants.

Discretionary grants (including, but not limited to, National Emergency Grants, H1-B grants, Trade Adjustment Assistance Community College grants, Face Forward, Disability Employment Initiative, and YouthBuild grants) awarded prior to December 26, 2014, where no incremental or annual funds will be added through a Notice of Obligation or Award during their period of performance, will retain their original grant terms and conditions and may continue to follow the terms and conditions of their awards, as described above. However, grantees may request a modification to their award to replace these regulations with the new Uniform Guidance, as discussed in Section 5 of this guidance.

For Unemployment Insurance discretionary grants that receive incremental funding during their period of performance, the new Uniform Guidance will apply to new funds in existing grants beginning when new funds are awarded, on or after December 26, 2014. See Section 5 for instructions regarding requests to modify overall grant to incorporate the new Uniform Guidance.

c. Application to National Program grants.

Senior Community Service Employment Program (SCSEP) grants, Indian and Native American Program (INAP) grants, and National Farmworker Jobs Program (NFJP) grants awarded prior to December 26, 2014, where no additional or incremental funds will be added through a Notice of Obligation or Award, will retain their original grant terms and conditions and may continue to follow the terms and conditions of their awards, as described above. However, grantees may request a modification to their award to replace these regulations with the new Uniform Guidance, as discussed in Section 5 of this guidance.

For national program grants that receive annual or incremental funding allotments during the life of their grant, the new Uniform Guidance will apply to new funds awarded under existing grants beginning when new funds are allotted on, or after, December 26, 2014. It is expected that the next funding allotments for all National Program grants will be issued on or after July 1, 2015. See Section 5 for instructions regarding requests to modify overall grant to incorporate the new Uniform Guidance.

5. Implementation of the Uniform Guidance.

Implementation of the Uniform Guidance will require grantees to review and update all financial and administrative policies, procedures and systems. In many cases, these updates are effective immediately. However, some provisions, such as audit, have a delayed effective date to enable states to go complete a fiscal year under the new requirements. The Council of Federal Financial Assistance Reform has published extensive Frequently Asked Questions (FAQs) on implementation on their website: <https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf>. These FAQs address timing and specific scenarios of implementation and in some cases, such as procurement, provide transition periods for grantees. Additionally, DOL ETA is developing online training and in-person training on the new Uniform Guidance. This training will be available in the first half of 2015.

While some grantees will retain the old circulars/regulations for cost principles, uniform administrative requirements, and audit requirements for their current grants, any new Federal awards received by that organization on, or after, December 26, 2014, will be under the new Uniform Guidance, which requires changes to fiscal and administrative policies, procedures and systems. If grantees retain the old circulars/regulations, this will necessitate maintenance of two sets of policies, procedures, and systems. Therefore, ETA strongly encourages all grantees to shift **on December 26, 2014**, to follow the new Uniform Guidance and immediately update policies, procedures, and systems in accordance with the Uniform Guidance. The modification request would be submitted after December 26, 2014, through ETA's regional offices and require approval by ETA Grant Officer.

To facilitate this:

- a. Grantees that will receive annual allotments or other incremental funding in 2015 may choose to "opt-in" immediately and will not be penalized for following the new Uniform Guidance for all funds beginning on December 26, 2014. However, a modification to your current grant will be necessary to officially apply the new guidance to existing grant awards for the funds issued prior to December 26, 2014.
- b. Current discretionary or other grantees awarded prior to December 26, 2014, that will not be receiving incremental or annual funds for their award may request a modification to their existing grant award to incorporate the new Uniform Guidance into their grant terms and conditions and apply it to funds awarded prior to December 26, 2014. Grantees can submit their modification request after December 26, 2014, through ETA's regional offices for review and approval by the ETA Grant Officer.

Examples:

Scenario 1: On July 1, 2014, ETA awards grant number 12345 to State ABC for Employment Services. The period of performance is three years. The Notice of Obligation issued on July 1, 2014 is for \$500,000. Included in grant 12345 is a term requiring compliance with OMB Cost Principles at 2 CFR 220, 225, and 230, as well as 29 CFR Parts 95, 96, 97 and 99. On January 15, 2015, ETA issues a Notice of Obligation (NOO) under grant 12345 to State ABC for an additional \$500,000. The NOO contains a new grant term indicating that the new \$500,000 must follow 2 CFR 200 and 2 CFR 2900. In lieu of maintaining two sets of operating procedures, State ABC has updated their policies and procedures to comply with the new Uniform Guidance. State ABC may opt to begin following the Uniform Guidance at 2 CFR 200 beginning on December 26, 2014 without penalty from DOL. On January 16, state ABC submits a formal modification request to the FPO to modify their existing grant to change the term requiring compliance with 2 CFR 220, 225, 230, and 29 CFR Parts 95, 96, 97, and 99 to instead comply with 2 CFR 200 and 2900. The state's new money would fall under the Uniform Guidance on the date the NOO was effective, January 15, 2015. The July 1, 2014 funds would fall under the new Uniform Guidance when the modification is executed. The state would not be penalized for following the new Uniform Guidance prior to the effective date of the modification. As a result of the modification, State ABC must now expend all funds under grant number 12345 in accordance with 2 CFR 200 and 2 CFR 2900.

Scenario 2: On May 1, 2013, ETA awarded a TAACCCT grant, number 56789, to Anytown Community College. Grant 56789 is a three year grant and includes a term requiring compliance with OMB Cost Principles at 2 CFR 220, 225, and 230, as well as 29 CFR Parts 95, 96, 97 and

99. ETA will not award any additional funds to this grant. However, Anytown Community College receives federal grant funding from Department of Education and has applied for a grant from National Science Foundation that would be awarded in February 2015. Therefore, in lieu of maintaining two sets of operating procedures, Anytown Community College has updated their policies and procedures to comply with the new Uniform Guidance. Anytown Community College may opt to begin following the Uniform Guidance at 2 CFR 200 beginning on December 26, 2014 without penalty from DOL. On February 28, Anytown Community College submits a formal modification request to the FPO to modify their existing grant to change the term requiring compliance with 2 CFR 220, 225, 230, and 29 CFR Parts 95, 96, 97, and 99 to instead comply with 2 CFR 200 and 2900. While the new Uniform Guidance applies to funds expended after the effective date of the modification, the college will not be penalized for following the new Uniform Guidance prior to the effective date of the modification. As a result of the modification, all funds under grant number 56789 must now be expended in accordance with 2 CFR 200 and 2 CFR 2900 and ETA will no longer require such funds to conform with 2 CFR 220, 225, 230, and 29 CFR Parts 95, 96, 97, and 99.

Scenario 3: On September 30, 2012, a small non-profit organization received a three-year YouthBuild grant. The DOL YouthBuild grant is their only federal funding. This non-profit does not anticipate applying for any other federal funds until their current YouthBuild grant ends. They decide to continue to follow their current grant term that requires compliance with OMB Cost Principles at 2 CFR 220, 225, and 230, as well as 29 CFR Parts 95, 96, 97 and 99 and to not request a modification that they will only comply with 2 CFR 200 and 2900. In this case, where no new funds will be added to this grant, ETA will monitor, complete audit resolution, and close out this grant in accordance with 2 CFR 220, 225, and 230, as well as 29 CFR Parts 95, 96, 97 and 99 and will **NOT** apply the requirements of 2 CFR 200 and 2 CFR 2900. However, ETA strongly encourages this small non-profit organization to review 2 CFR 200 and 2 CFR 2900, participate in training on the new regulation, and begin the process of updating their policies and procedures so they are prepared if and when they receive another federal award.

6. Coordination with Transition to the Workforce Innovation and Opportunity Act.

The Workforce Innovation and Opportunity Act (WIOA) also requires states to assess their fiscal and administrative policies, procedures, and systems. WIOA is consistent with the new Uniform Guidance. Because the new statute and rule are being implemented simultaneously, it is an opportune time to inventory, update, and train staff and subrecipients on the new Uniform Guidance in conjunction with the transition to WIOA.

7. Action Requested. Please disseminate to appropriate staff.

8. Inquiries. Questions regarding this guidance should be directed to the appropriate ETA Regional Office.