

Virtual Presentation



Uniform Guidance Update

*By Karen Norris, Principal
Kanoco Consulting*

*Prepared for
Governor's Office of Planning and Research
State of California*



OPR Federal Assistance



The screenshot shows the homepage of the Governor's Office of Planning and Research (opr.ca.gov). The navigation menu includes links for CEQA & State Clearinghouse, Planning & Land Use, Climate & Resilience, Economic Development, and Long-Range Research. The main content area features several informational cards: State Clearinghouse, Document Submission, California Environmental Quality Act (CEQA), Technical Advisories, Federal Assistance (highlighted with a red border), CEQA Updates, California Jobs (AB 900), and CEQA & Climate Change. Below the cards, there is a section titled 'ON THIS PAGE:' with buttons for 'What We Do', 'Announcements', 'Tools and Resources', and 'Initiatives'. The URL at the bottom of the browser window is https://opr.ca.gov/clearinghouse/ceqa/federal-grants/.

with a focus on land use and community development, climate risk and resilience, and high road economic development.

Applying for Federal Grants



A screenshot of the website https://opr.ca.gov/clearinghouse/ceqa/federal-grants/. The page has a dark red header with navigation links: "About OPR", "Meetings", "Publications", "Partners", "E-Lists", and "Settings". Below the header is a search bar and a navigation menu with categories: "CEQA & State Clearinghouse", "Planning & Land Use", "Climate & Resilience", "Economic Development", and "Long-Range Research". The main content area features a large heading "Review of Federal Programs". Below the heading is a paragraph of text explaining the State Clearinghouse's role. A second paragraph states that the SCH does not administer grant programs. At the bottom of the main content area, there are three icons: a purple building icon labeled "Applying for Federal Grants" (highlighted with a red box), a purple document icon labeled "Federal Grant Resources", and a purple envelope icon labeled "Federal Grants E-List". The footer contains links for "Back to Top", "Conditions of Use", "Privacy Policy", "Accessibility", and "Contact Us", along with social media icons and a copyright notice: "Copyright © 2021 State of California".

Applying for Federal Grants



← → ↻ https://cfda.opr.ca.gov/#/

CA.gov Contact Us Settings

Intergovernmental Review of Federal Programs

OPR Home Submissions Registration Login

Home

The State Clearinghouse (SCH) serves as the state's Single Point of Contact for the submission of Federal assistance applications pursuant to [Presidential Executive Order No. 12372](#) and [SAM Section 0912](#). With the signing of [Assembly Bill 1348](#) the State Clearinghouse is responsible for reporting on all federal grants applied for and received in California regardless if they fall under Executive Order 12372. We have developed the new on-line database to assist with that reporting.

These applications must be provided to the SCH, which in turn publishes this information for review by State and local elected officials. The SCH does not administer grant programs or offer any grant funding. Please visit [Grants.gov](#) for funding opportunities.

Federal Assistance Application

To apply for a federal assistance program, please upload a copy of your application cover form (Standard Form 424) to the SCH. DO NOT send your full application package or any other supplemental information.

In the appropriate box on Form 424, mark that the federal assistance application was made available for state review under the Executive Order 12372 process before submitting your federal assistance application to the federal funding agency.

*** Organization Name**

*** Email Address**

*** Catalogue of Federal Domestic Assistance (CFDA)**

Federal Grant Resources



https://opr.ca.gov/clearinghouse/ceqa/federal-grants/

CA.GOV Governor's Office of Planning and Research

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Review of Federal Programs

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[Applying for Federal Grants](#)

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Federal Grants E-List



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[Applying for Federal Grants](#) [Federal Grant Resources](#) **[Federal Grants E-List](#)**

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Uniform Guidance Update

Learning Objectives

Uniform Guidance Update

Learning Objectives

- Name past federal regulations, legislation, and other federal actions that impacted the uniform guidance.
- Explain past funding issues that placed grants at risk.
- Identify the Aug 13, 2020 and Feb 22, 2021 updates.

Uniform Guidance Update

A Few Words

Uniform Guidance Update

A Few Words

The uniform guidance is a living document.

Revisions occur over time as new legislation and other requirements are implemented.

Uniform Guidance Update

A Few Words

OMB published a proposed revised version of the uniform guidance on 1/22/20.

OMB published the Final Rule 8/13/20.

OMB published correcting amendments 2/22/21.

Uniform Guidance Update

A Few Words

In addition to OMB, there are other influences such as the President's Management Agenda, Executive Orders, and Presidential Memos.

Developments in technology and use of data are also changing the way we manage federal funding.

Learning Objective #1

Past Federal Regulations, Legislation, and Other Actions

LO1: Key Regulations

What Federal Regulations Apply?

- Program statute (USC)
- Federal agency regulation (CFR)
- Uniform guidance (CFR)
- Award agreements.
- Executive orders.
- Presidential memos.



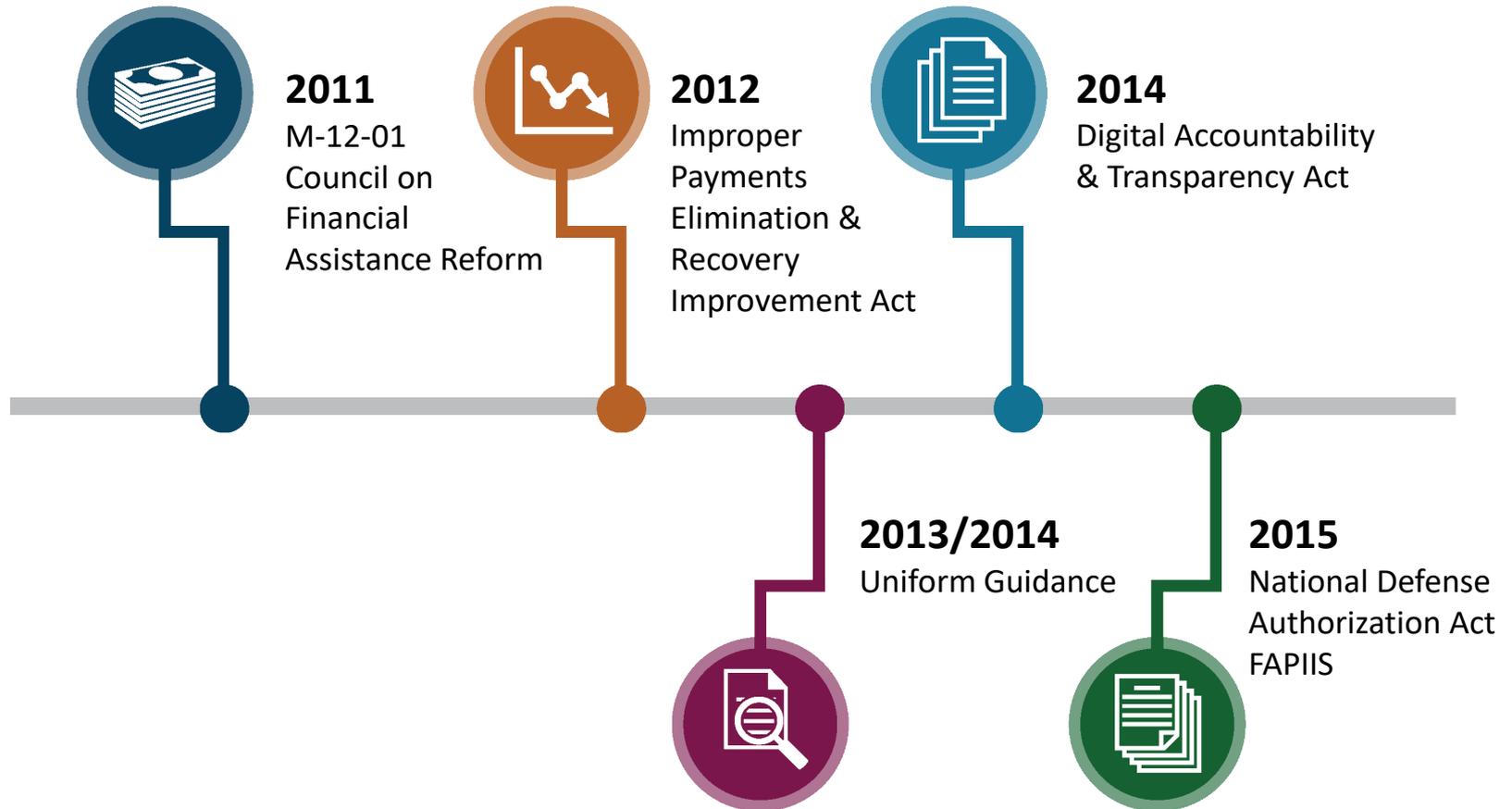
LO1: Key Regulations

Public Laws and Other Actions



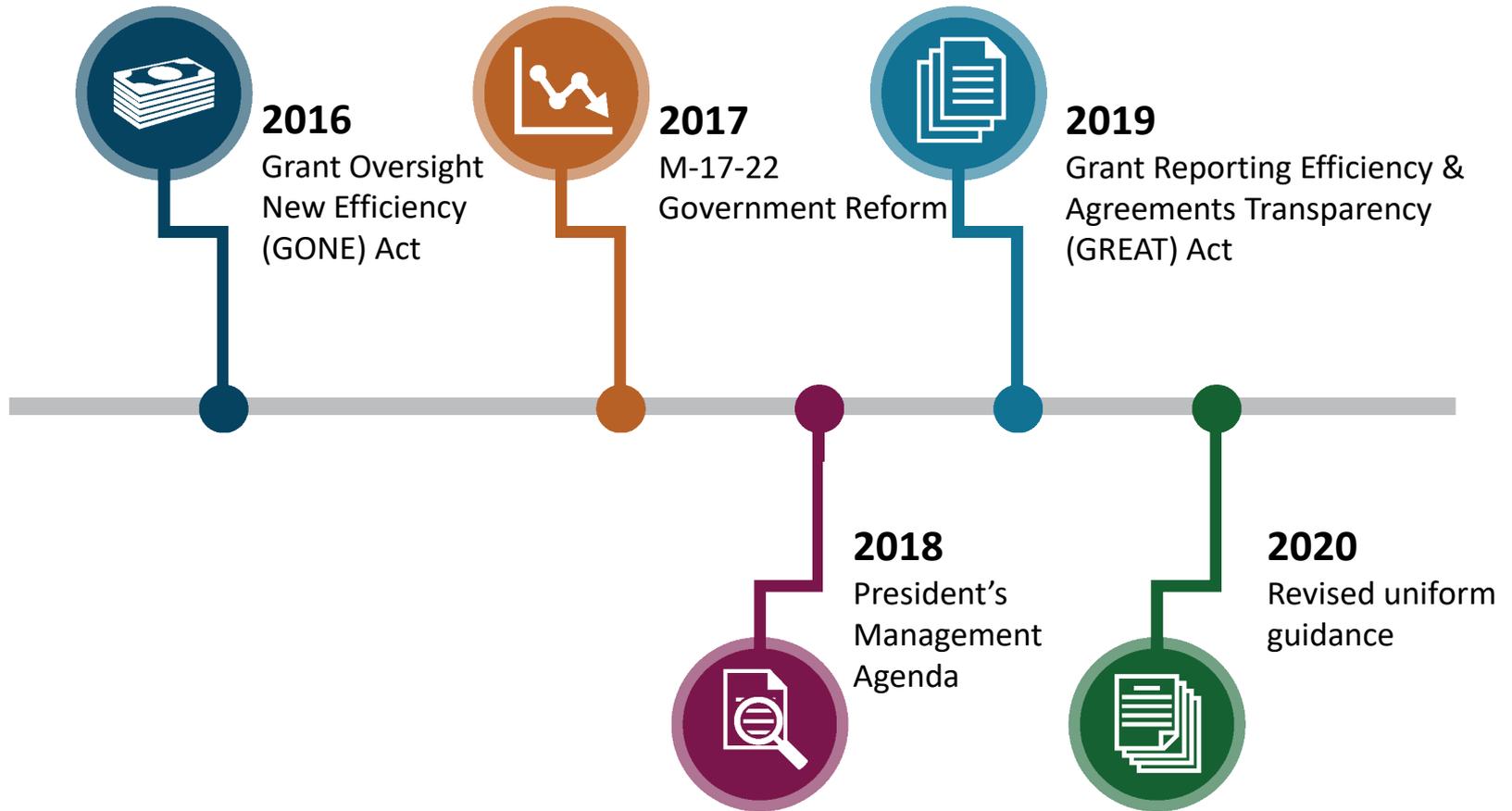
LO1: Key Regulations

Public Laws and Other Actions



LO1: Key Regulations

Public Laws and Other Actions



LO1: Key Regulations

Legislation and Digital Assets

Date	Name	Website
1999	FFAMIA	www.grants.gov
2006	FFATA	www.usaspending.gov
2009	ARRA	www.recovery.gov
2009	NDAA	www.FAPIIS.gov
2010	IPERA	www.paymentaccuracy.gov
2012	CCR/others	www.SAM.gov
2014	DATA Act	www.USAspending.gov (beta) & www.fedspendingtransparency.github.io

LO1: Key Regulations

Executive Orders (EOs)

- An executive order delivers a statement or proclamation from the White House on a wide variety of matters from naming a statue to significant domestic actions.



LO1: Key Regulations

Executive Orders (EOs)

- EOs have the force of law, but bypass Congress.
- <https://www.whitehouse.gov/briefing-room/presidential-actions/>.



LO1: Key Regulations

Executive Orders (EOs)



Lincoln

Emancipation Proclamation



Truman

Integrated Armed Forces



GW Bush

Restricted Public Access to Papers



Obama

Rescinded it

LO1: Key Regulations

EOs that Impact Financial Assistance

EO	Description
EO 12549	Suspension and Debarment
EO 13450	Improving Program Performance
EO 13520	Reducing Improper Payments
EO 13576	Delivering an Efficient Government
EO 13642	Open Machine-Readable Formats

LO1: Key Regulations

Presidential Memos

- The White House issues memos (through OMB) to federal agencies to take action on a matter.
- These memos can be rescinded by a subsequent presidential administration.
- <https://www.whitehouse.gov/omb/information-for-agencies/memoranda/>.



LO1: Key Regulations

Presidential Memos



Clinton

Y2K readiness



GW Bush

Agencies to post on Grants.gov



Obama

Report metrics of Uniform Guidance



Trump

Rescinded metrics of Uniform Guidance

LO1: Key Regulations

Memos that Impact Financial Assistance

Memo	Description
M-11-31	Delivering an Efficient Government
M-12-01	Council on Financial Assistance Reform
M-12-02	Suspension and Debarment
M-14-17	Improving Shared Services
M-19-16	Shared Services

LO1: Key Regulations

Uniform Guidance Updates

Regulations, legislation, and other actions cause updates to Uniform Guidance:



- Improper payments, waste, fraud and abuse
- Risk-based management
- Performance and results
- Accountability and transparency
- Data standards and data analytics

LO1: Key Regulations

The Uniform Guidance has been, and will continue to be, updated since its first release.

1

DUNS replaced with unique entity identifier

2

FAPIS provisions added (200.212, App XII)

3

Procurement revised

A

Three-year
grace period

B

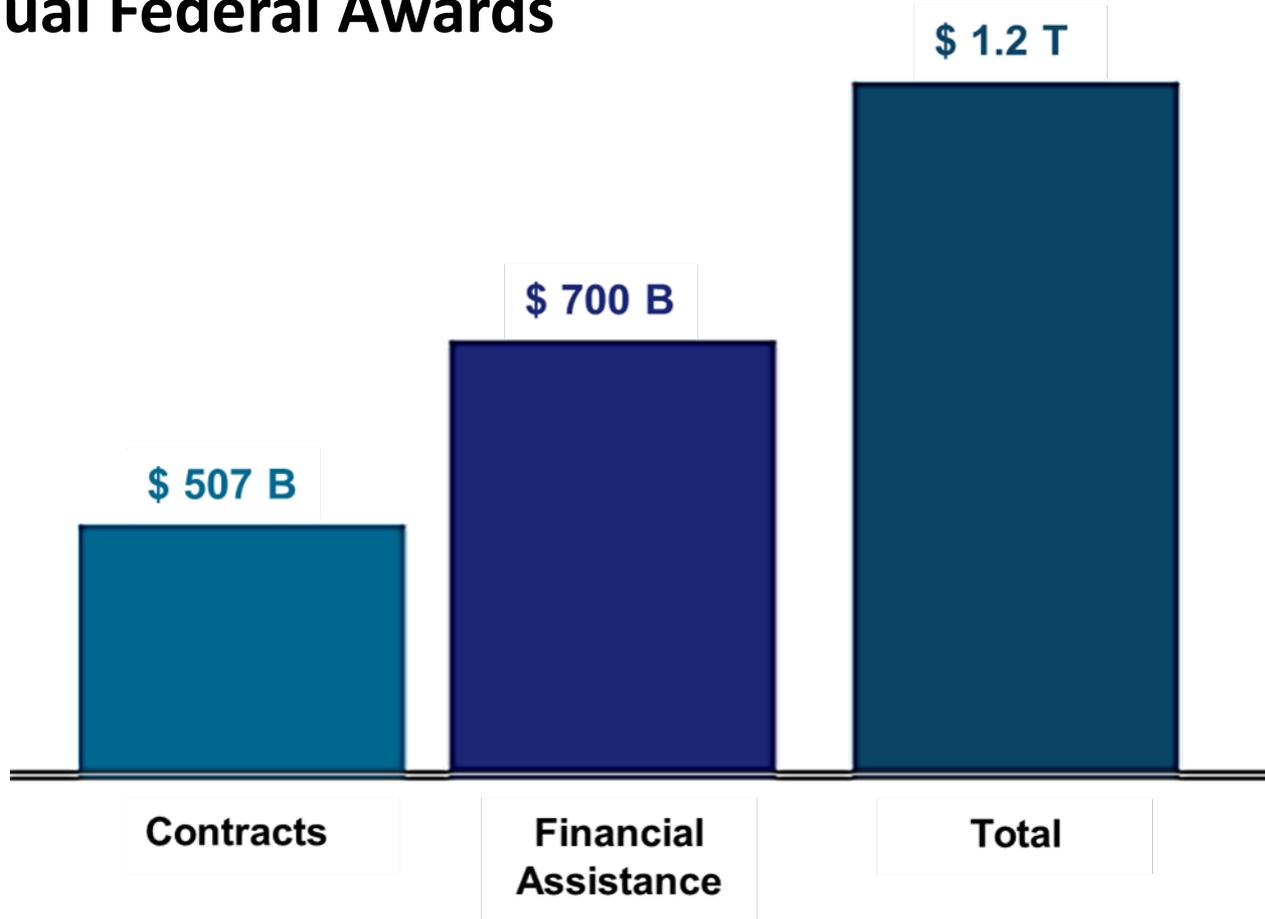
New procurement
threshold (M-18-18)

Learning Objective #2

Funding Levels and Risk

LO2: Funding and Risk

Annual Federal Awards



LO2: Funding and Risk

COVID Funding

- It is anticipated that COVID funding will significantly increase grant funding totals for 2020.

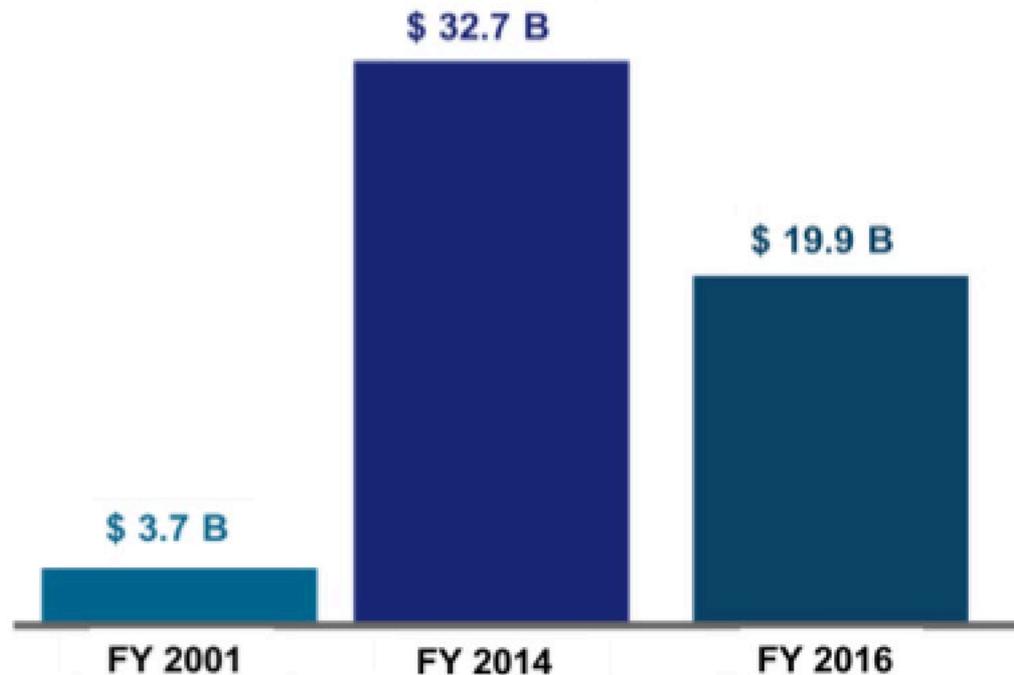
LO2: Funding and Risk

Here's the Issue: Improper Payments

Year	Improper Payments
2012	\$108 billion
2013	\$106 billion
2014	\$125 billion
2015	\$137 billion
2016	\$144 billion
2017	\$141 billion
2018	\$151 billion
2019	\$175 billion
	GAO Report 20-344

LO2: Funding and Risk

Recovery of Improper Payments



 Council of the Inspector General on Integrity and Efficiency (CIGIE) report.

LO2: Funding and Risk

Recovery of Improper Payments



The need for greater stewardship of federal funds and the risk of waste, fraud, and abuse, have resulted, not only in updates to the uniform guidance, but also in recovery audits.

Learning Objective #3

Identify the Updates

LO3: Final Rule

Final Rule 8/13/20

- Final Rule was published 8/13/20.
- Final Rule is effective 11/12/20.
- Four parts under the CFR were revised:
 - 2 CFR 25 – DUNS Number.
 - 2 CFR 170 – Subrecipient reporting.
 - 2 CFR 183 – Do not contract with the enemy.
 - 2 CFR 200 – Uniform guidance.

LO3: Final Rule

Final Rule and Correcting Amendments

- The August 13, 2020 Federal Register notice is available at <https://www.federalregister.gov/documents/2020/08/13/2020-17468/guidance-for-grants-and-agreements>.
- The February 22, 2021 Federal Register notice is available at <https://www.federalregister.gov/documents/2021/02/22/2021-02969/guidance-for-grants-and-agreements>.

LO3: Final Rule

2 CFR 25 – DUNS Number

- July 10, 2019 Federal Register (84 FR 32916).
 - GSA announcement.
 - Unique Entity Identifier (UEI) considered final.
 - Phase-out of DUNS through 2020, extended to April 2022.
 - Non-proprietary 12-digit number.
 - Assigned at SAM.gov renewal.
 - Login.gov authentication.
 - Final Rule 8/13/20 and
 - GSA update 10/26/20 for extension.



LO3: Final Rule

2 CFR 25 – DUNS Number

- Additional information and links:
 - Go to <https://www.login.gov> to check authentication credentials.
 - Visit www.gsa.gov/entityid to read about the unique entity identifier (UEI) to replace DUNS.
 - Read <https://interact.gsa.gov/blog/government-transition-duns-number-new-unique-entity-identifier-extended>, for the 4/22 extension.



LO3: Final Rule

2 CFR 25 UEI and SAM.gov

- Transition timeline from DUNS to UEI.
 - New UEI received at SAM.gov renewal.
 - Go live: TBD, extended to April 2022.
- Registrants must also provide information on owners, predecessors, parent and subsidiary companies, in addition to the organizational information.

LO3: Final Rule

2 CFR 25 Appendix A

- *“...you as the recipient must contain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a federal contract or grant within the last three years...”*

LO3: Final Rule

Updates to All Grants.gov Forms

- Every grant-related form needs to be updated for the DUNS number and uniform guidance revisions.
- As of this writing, Grants.gov indicated all form updates to be completed 9/8/20, and submitted to its training environment.
- All forms will go live – TBD, go to:
<https://www.grants.gov/web/grants/forms/planned-uei-updates.html>.

LO3: Final Rule

2 CFR 170 Subaward Reporting

- Require award and subaward reporting on the OMB-designated, government-wide website.
 - Agencies must report awards over the micro-purchase threshold.
 - Award terms must be included for awards over \$30,000.

LO3: Final Rule

2 CFR 170 Subaward Reporting

- Reporting includes awards to federal agencies, foreign organizations, foreign public entities, and for-profits.
- Reporting for subawards over \$30,000.

LO3: Final Rule

2 CFR 183 – Never Contract with the Enemy

- NDAA of 2015 included requirements for the federal contract community not to award federal contracts to hostiles or combatants.
- NDAA of 2015 sunset December 2019.
- New 2 CFR 183 continues the requirement for contract community and extends it to the grant community.
- Applies to grants over \$50,000 performed outside the US.

LO3: Final Rule

2 CFR 183 Created Provisions 200.215, .216, 471.

- Do not contract with the enemy (200.215).
- Better risk assessments for international awards.
- Do not purchase forbidden video surveillance and telecommunications equipment (200.216).
- Cost principles surveillance equipment (200.471)
- 200.216 took effect 8/13/20, not 11/12/20.

LO3: Final Rule

Updates for 2 CFR 200 Uniform Guidance

LO3: Final Rule

Subpart A – Definitions 200.1

- Separate provision numbers removed.
- All definitions under 200.1 for ease of addition and/or removal.
- Definition of nonfederal entity was not revised:
 - Missing foreign public entity, foreign organizations, for-profits.
 - Also missing federal agency (as a recipient).
 - 2 CFR 25 and 2 CFR 170 definitions were updated.

LO3: Final Rule

Applicability 200.101(a)(2)

- Federal agencies may apply Subparts A-E to for-profit entities, foreign public entities, or foreign organizations.
 - Not “must.”
- Questions remain about Subpart F audit and federal agencies who receive awards from other federal agencies.
- This does not match the revised language in 2 CFR 25 and 2 CFR 170.

LO3: Final Rule

Effective Dates (200.110)

- Final Rule was effective 11/12/20.
- Correcting amendments effective 2/22/21.
- Existing indirect cost rates, as of 11/12/20, remain in effect until they expire, based on nonfederal entity fiscal year.

LO3: Final Rule

Effective Date (cont)

- Negotiated indirect cost rates remain in place until re-negotiated.
- Changes to indirect rates become effective at the nonfederal entity's next fiscal year.

LO3: Final Rule

Program Planning and Design 200.202 (New)

- Grants and cooperative agreements must achieve program goals and objectives.
- Supports PMA.
- Granting agencies to hold recipients accountable for performance.
- Reflects Evidence Act to advance data and “evidence-building functions.”
- Logic models may be used.

LO3: Final Rule

Public Notice of Funding Opportunities 200.203

- Catalog of Federal Domestic Assistance (CFDA).
- CFDA becomes Assistance Listings.
- Old website www.cfda.gov.
- New website <https://beta.sam.gov>.
- Listing must align with federal agency's strategic plan and Part 6 of OMB A-11 to include performance measures, management, and required reporting.

LO3: Final Rule

New 200.215 Do Not Contract with the Enemy

- New provision 200.215 to align with 2 CFR 183, never contract with the enemy.
- Applies to federal grants and cooperative agreements over \$50,000 to be implemented outside the United States.

LO3: Final Rule

New 200.216 Prohibition on Certain Equipment

- Communications and video surveillance.
- List of known companies to avoid.
- Other companies, as identified by Secretary of Defense, National Intelligence Director, or FBI.
- Takes effect immediately, as of 8/13/20.
- Relates to new 200.471 in cost principles.

LO3: Final Rule

Performance Measurement (200.301)

- Federal awarding agencies and nonfederal entities must measure performance.
- Performance goals, indicators, and milestones must be included in award agreement (200.211).
- Must align with Evidence Act.

LO3: Final Rule

Internal Control 200.303

- M-16-17.
- GAO Green Book and COSO Model.
- OMB Circular A-123 Enterprise Risk Management and Internal Controls.
 - Agencies to work with a risk-based strategy.
 - Agencies to improve accountability.
 - Growing importance in uniform guidance of internal control 200.303.

LO3: Final Rule

Five Components of Internal Control

Control Environment	Risk Assessment	Control Activities	Information & Communication	Monitoring Services
<ol style="list-style-type: none">1. Demonstrates commitment to integrity and ethical values2. Exercises oversight responsibility3. Establishes structure, authority, and responsibility4. Demonstrates commitment to competence5. Enforces accountability	<ol style="list-style-type: none">6. Specifies suitable objectives7. Identifies and analyzes risk8. Assesses fraud risk9. Identifies and analyzes significant change	<ol style="list-style-type: none">10. Selects and develops control activities11. Selects and develops general controls over technology12. Deploys through policies and procedures	<ol style="list-style-type: none">13. Uses relevant, quality information14. Communicates internally15. Communicates externally	<ol style="list-style-type: none">16. Conducts ongoing and/or separate evaluations17. Evaluates and communicates deficiencies

LO3: Final Rule

Period of Performance (200.309)

- Revisions to PoP include no-cost extensions, terminations, and renewal periods of awards.
- New closeout provision includes focus on end of PoP.

LO3: Final Rule

Procurement (200.317 – 200.327)

- Three-fiscal year grace period for procurement, ended FY 2018.
- FY 2019 first year all nonfederal entities must follow the procurement provisions.
- Previous citations 200.317-200.326, now 200.317-200.327.
- Some new and revised requirements.

LO3: Final Rule

Procurement Thresholds (200.320)



- NDAA 2017 and 2018 raised procurement thresholds.
 - Micro-purchase from \$3,500 to \$10,000.
 - Simplified Acquisition Threshold from \$150,000 to \$250,000.
- Uniform guidance is now updated with additional options.

LO3: Final Rule

Procurement Thresholds



- FAR is updated with the new procurement thresholds.
 - Micro-purchase up to \$10,000.
 - Simplified acquisition (small purchase) up to \$250,000.

LO3: Final Rule

Informal Procurement Methods (200.320(a))



- Nonfederal entity may increase the micro-purchase level beyond the FAR designated \$10,000:
 - Micro-purchase up to \$50,000 with documented justification.
 - Micro-purchase over \$50,000 with federal agency approval.
- Increased values must be authorized under state, local tribal laws.

LO3: Final Rule

Significance of Procurement Thresholds



- A purchase below the simplified acquisition threshold is considered a small or informal purchase (200.320(a)).
 - No need for a bid process.
 - Adequate number (2-3) price quotes.
 - Much simpler procurement.

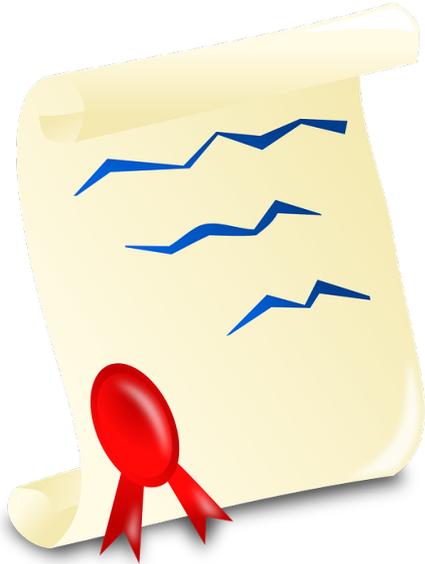
LO3: Final Rule

Procurement and Buy American (200.321) (New)

- Nonfederal entities are encouraged to use goods, products, and materials that are produced in the United States.

LO3: Final Rule

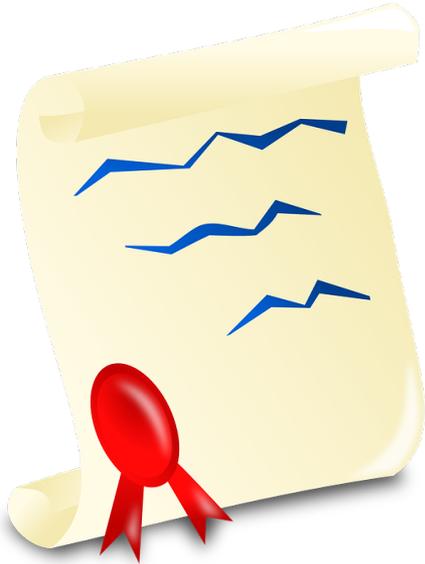
Grant Reporting (200.329)



- Grant Reporting Efficiency and Agreements Transparency (GREAT) Act.
- Enacted into law 12/30/19.
- May change grant reporting requirements – TBD.

LO3: Final Rule

GREAT Act



- Government-wide data standards in one year.
- Implement new standards in two years.
- Publish grant reports on government-wide website.

LO3: Final Rule

Machine-Readable Formats 200.336

- OMB to clarify collection, transmission, and storage of data.
- Supports Evidence Act.

LO3: Final Rule

Closeout ~~200.343~~ 200.344

- Subrecipients to submit final reports to pass-through entities within 90 days of the end of period of performance.
- Recipients (including pass-throughs) must submit final report to federal agencies by 120 days, increased from 90 days.
- Federal agencies must complete closeout by one year after end of period of performance.

LO3: Final Rule

Closeout 200.344(h) - NEW

- If nonfederal entity does not submit all reports on time, federal agency must close the project using the information available within one year of the end date of period of performance.

LO3: Final Rule

Closeout 200.344 (i) - NEW

- If the federal agency must close out the project using the information available, the federal agency must report the nonfederal entity in FAPIIS as a material failure to comply with award terms and conditions.

LO3: Final Rule

Indirect Costs/De Minimis Rate 200.414(f)

- Expanded use of the *de minimis* rate – any nonfederal entity that does not currently have a negotiated rate may elect to use the 10% *de minimis* rate on MTDC, unless a state/local/tribal agency expending more than \$35M in federal awards a year (Appendix VII).
- All negotiated rate agreements will be posted on a new public website.

LO3: Final Rule

Selected Items of Cost (200.420-476)

- New item of cost 200.471.
- Allowability of telecommunications and video surveillance equipment, except for exclusions noted in 200.216.

LO3: Final Rule

February 2021 Correcting Amendments

- Definition citations corrected to 200.1 and all definitions are listed alphabetically.
- Exceptions may be adjusted with federal agency approval (200.102).
- Pre-award risk assessments updated to reflect the Payment Integrity Information Act (PIIA) of 2019.
- Intergovernmental procurement agreements are encouraged (200.318(e)).

LO3: Final Rule

February 2021 Correcting Amendments

- Pass-through entities must resolve subaward audit findings (200.332).
- Cost allocation plan requirements (200.416) are contained in appendices V, VI, VII.
- Auditees must follow procurement standards when selecting an auditor.
- Auditors must report significant or material deficiencies (200.514 and 200.516).
- Hospital cost principles remain at 2 CFR 75 (App IX).

LO3: Final Rule

2020 Compliance Supplement, App XI



- Reduce administrative burden.
- Decrease compliance tests from 12 to 6 per program.
- Part 2 Matrix identifies the compliance tests per program.
- https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement_FINAL_08.06.20.pdf

LO3: Final Rule

Second Compliance Supplement in 2020



- Considered an addendum.
- Relates to COVID funding.
- https://www.whitehouse.gov/wp-content/uploads/2020/12/2020-Compliance-Supplement-Addendum_Final.pdf

LO3: Final Rule

Timeline of Changes

- 1/22/20 proposed rule published in FR.
- 3/23/20 public comments were due.
- OMB reviewed public comments and incorporated some, as appropriate.
- Final Rule published in the FR, 8/13/20.
- Final Rule took effect 11/12/20.
- Correcting amendments to Uniform Guidance released 2/22/21.

LO3: Final Rule

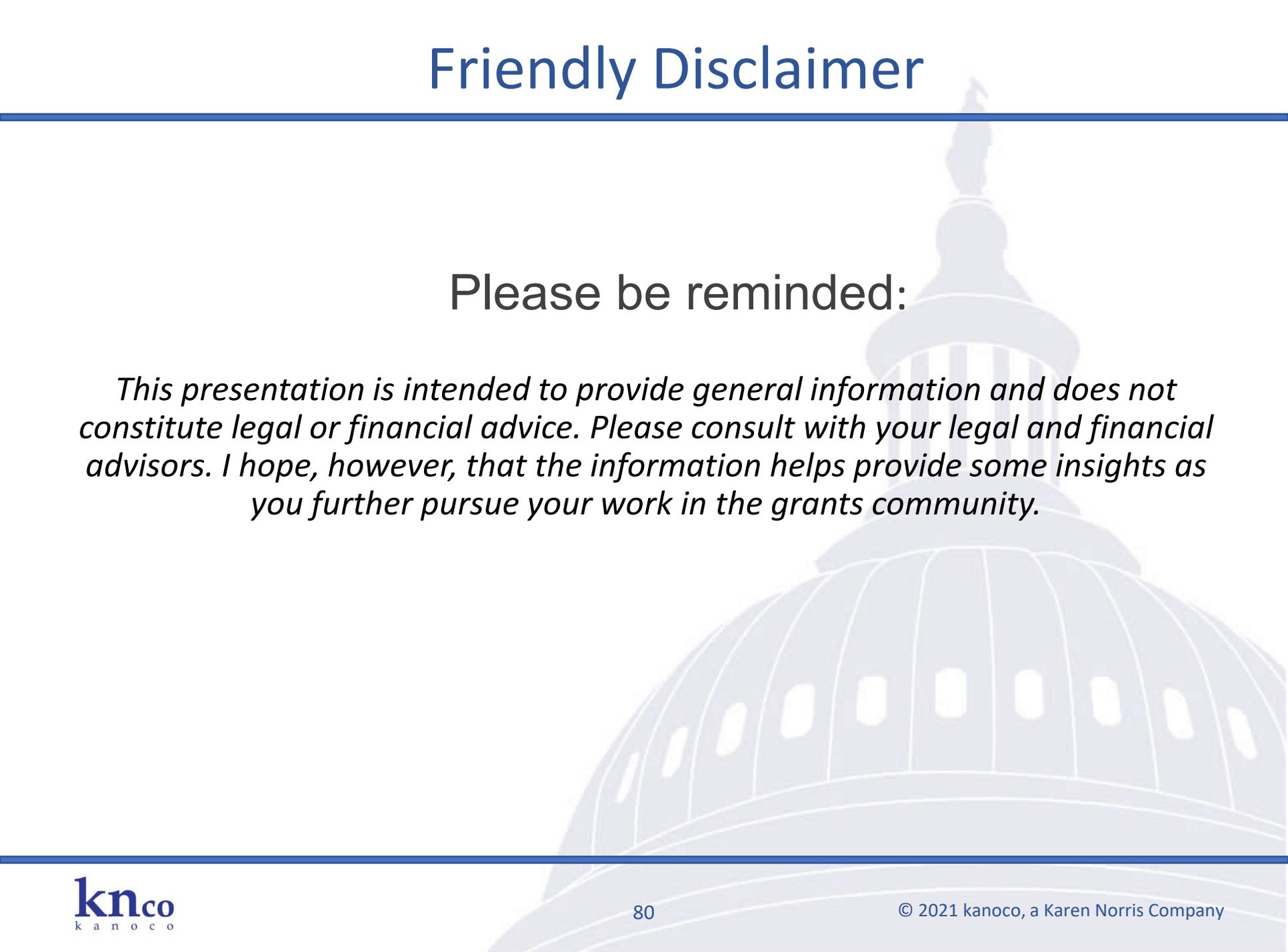
Timeline of Changes

- Federal agency regulations and nonfederal entity local policies and procedures may need to be updated to align with the revised uniform guidance.

Uniform Guidance Updates

Q & A

Friendly Disclaimer



Please be reminded:

This presentation is intended to provide general information and does not constitute legal or financial advice. Please consult with your legal and financial advisors. I hope, however, that the information helps provide some insights as you further pursue your work in the grants community.

Webinar

Prepared For



- Governor's Office of Planning and Research.
- State of California.

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