



# Grants, Gifts and Investments Accounting & Compliance (GGIA&C)

Updates: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule – 2 CFR Chapter I, Chapter II, Part 200, et al. (i.e., the Uniform Guidance, or the UG).”

April 28, 2021



- [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule – 2 CFR Chapter I, Chapter II, Part 200, et al. \(i.e., the Uniform Guidance, or the UG\)](#)
- The ever changing regulatory environment provides a significant challenge for research administrators to stay current on best practices for compliance.
- When the Uniform Guidance requirements came into place in December 2014, there were many rule changes that forced institutions to adjust (for better or worse).

## **7 years later, UG is still being interpreted and clarified**

### **OMB's consolidation of circulars for costing, administration and audit of Federal awards**

- 2 CFR 200 replaces 8 circulars and applies to universities, state and local governments, nonprofits, native tribes
- Issued on December 26, 2013
- Effective largely on December 26, 2014

## **Biggest change in Federal regulations in 50 years**

### **UG 200.400 (a) and (c)**

- UG indicates that organizations are responsible for the efficient and effective administration of awards through the application of sound management practices.
- UG also provides that organizations are responsible for employing whatever form of management may be necessary to assure proper and efficient administration of awards.

**UG Preamble: “The focus of final guidance on overall internal controls mitigates the need for reporting/certification.”**

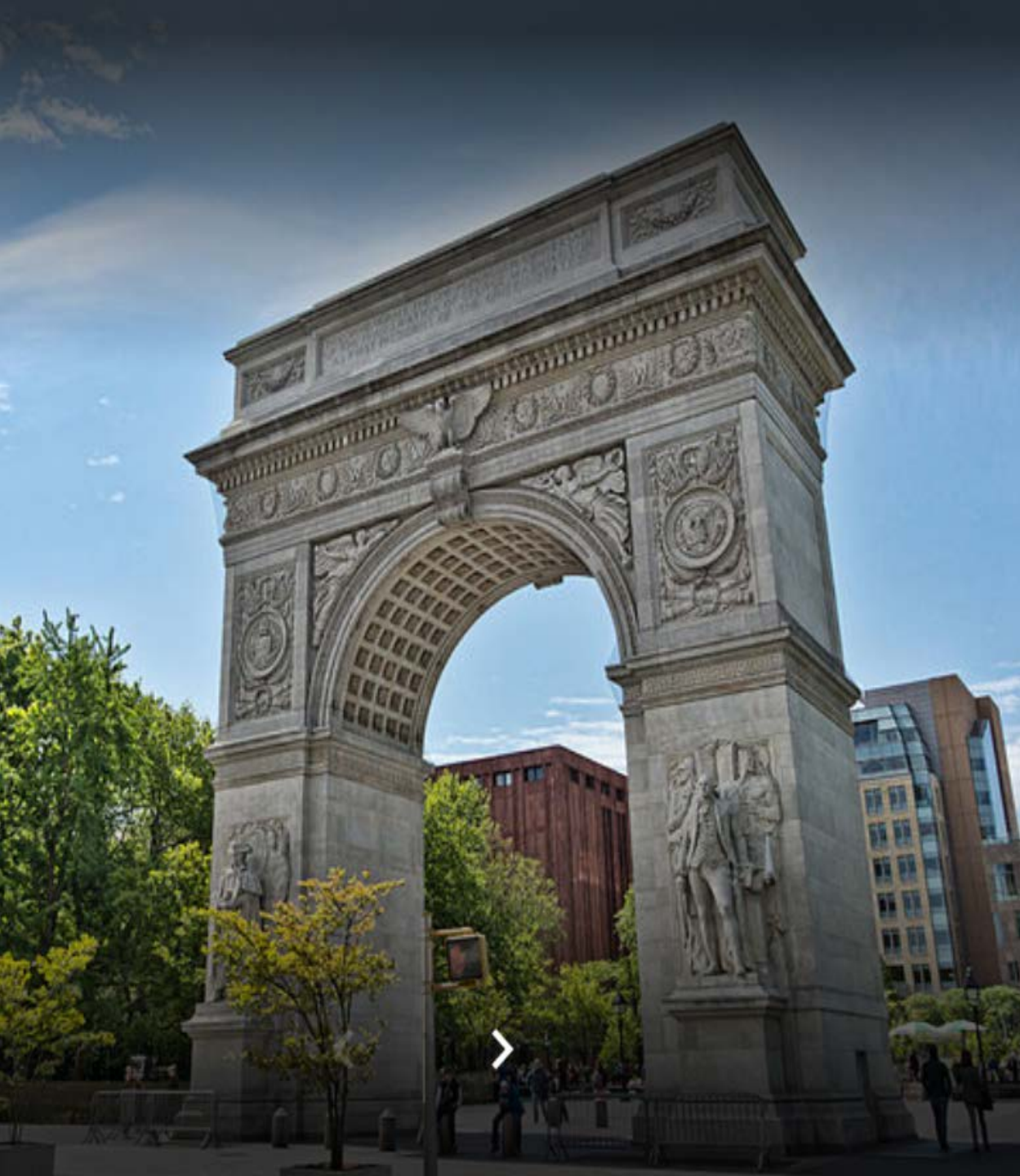
**Preamble: Reform objective is to “reduce both administrative burden and risk of waste, fraud, and abuse.”**

- Focus on Performance over Compliance Accountability.
- **200.430 Compensation according to COFAR:**
  - *A-21 did not allow for advances in internal controls, which could enable institutions to document salary costs in increasingly efficient ways. The changes to the UG:*
    - “... allow for alternatives to the current requirements that can provide an even higher standard of accountability without burdensome process requirements.”

UG FAQ .430 RE: Audit agency approval for changes: Institutions can develop solutions that meet the requirements in paragraph (i) and **reduce the burden** related to their current process whether they be incremental or more significant, including **complete elimination of current systems**

**OMB Uniform Guidance  
August 13, 2020 VERSION –  
EFFECTIVE NOVEMBER 12,  
2020**

**Many Positives!**



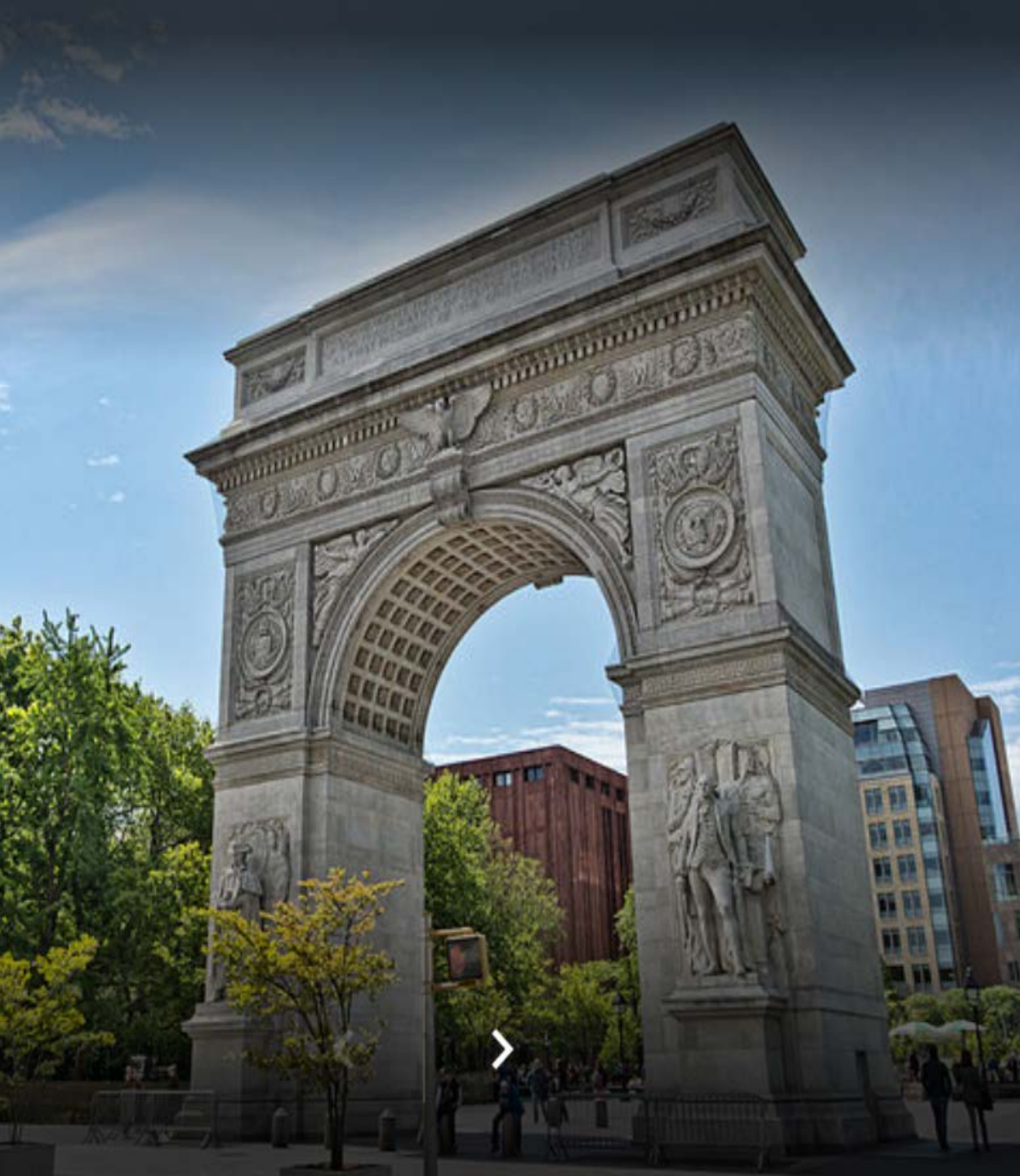
- **A matrix has been developed by OSP/SPA and will be emailed to campus following the Research Administrator Forum.**
- **For more questions, please contact: Meidy Candia-Leyva and Jason St. Germain**

[National Dialogue Summary](#) available. Updates that are considered positive/burden reducing/offering more flexibility:

- **200.413** - expanded direct costs, including 'program evaluation costs'. This opens the doorway for many more direct charging costs that could also be treated as indirect costs.
- **200.461** - publication costs can now be charged during closeout (after the end of the formal period of performance) and charged to the final budget. This no longer prevents publication costs from being charged to other budget periods.
- **200.201** - use of grant agreements (including fixed amount awards), cooperative agreements and contracts. In the final technical/financial report stage, the focus is solely on performance and outcomes that are "measurable goals and objectives." For budgeting, this also includes references that if adequate cost, historical, or unit pricing data is available - this can provide justification to establish a fixed amount award based on a reasonable estimate of actual costs. Federal agencies are being encouraged to do this by OMB for one reason: to reduce burden on universities. Also, this is anticipated to be part of President Biden's Management agenda.
- **200.320 (a)(1)(iv)** - establishes a micro-purchase threshold above the current threshold of \$10,000, up to \$50,000 without prior approval from the cognizant agency.

- **200.329(c)(1) enables recipients to have an additional 30 days to file final reports. That is, up to 120 days after the end of the performance period. Most universities will still operate on 90 days, but it's good to know there is a 30 day cushion, in case needed.**
- **200.329(b) now is clear that RPPR may meet the performance requirement. This reduces burden of needing to fill out other reports/forms (e.g. discretionary research awards).**
- **200.449(c)(4) - prior to the revision, interest was potentially disallowed if a capital lease was less costly than debt financing. The updated language changed "capital lease" to "a lease contract that transfers ownership by the end of the contract capital lease." This means interest can be allowed when debt financing is used.**
- **Part 170: the reporting threshold for subawards has increased from \$25,000 to \$30,000. This should result in less reporting and burdens.**
- **200.419: DS-2 is now required to be submitted in coordination with rate proposal.**





## **Methodology to Interpret and Implement UG reform:**

- **Least Intrusive, Minimal Burden Pathways.**
- **Operational goal is to advance the research/science.**
- **Administrative goal is to facilitate via consult and service.**

- An interesting update: 200.216
- In August 2018, the John S. McCain National Defense Authorization Act ([NDAA](#)) for Fiscal Year 2019 was signed into law to combat national security and intellectual property threats faced by the United States.
- The law contained two key procurement sections, Section 889(a)(1)(A) and Section (a)(1)(B), both of which restrict activity with and use of equipment and services from certain Chinese entities. This legislation impacts the terms and conditions of Federal research awards and has had complex implications for procurement and asset management operations at research institutions.
- The Federal Acquisition Regulation (FAR) incorporated provisions from Section 889, effective August 13, 2020. These new restrictions could easily go overlooked, putting Federal research awards at risk, which is why it is critical that research leaders become familiar with these new requirements.

- **Academic research institutions are open to all people of all backgrounds and nations. And, openness is not just a matter of principle, it has created a national competitive advantage by attracting talented people from around the world to the US. The benefits of this approach and underlying policies that have enabled it are powerfully demonstrated by the level of academic excellence in the U.S. and our standard of living.**
- **University's strongly support foreign collaborations for the benefits of student recruitment and talent, access to unique research facilities and programs, research funding opportunities, research dissemination, and publication opportunities. Therefore, the intention of this guidance and disclosure information is not to prevent or limit foreign collaborations, rather it is for the purpose of awareness of concerns present and its mitigation by providing assistance to resources and the requirements for researcher transparency.**

**There are three essential prohibitions and representations that institutions need to comply with and certify to under these laws:**

- Prohibit acquisition of telecommunications obtained from or produced by covered entities and affiliates. Section 889(a)(1)(A) prohibits the government — and thus its contractors — from **obtaining**, through a contract or other instrument, certain telecommunications equipment (including video surveillance) or services produced by a specific, enumerated list of covered entities and their subsidiaries and affiliates: Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company.
- Prohibit ‘use’ of covered equipment or services. Section 889(a)(1)(B) contains a prohibition relating to the **use** of covered telecommunications equipment and services incorporating certain Chinese technology, whether or not in the context of a federal contract.
- Representation identifying any covered equipment or services provided. Section 889 requires contractors to submit a representation identifying any “covered telecommunications equipment or services” that will be provided under the contract. Beginning October 26, 2020, institutions will be required to represent annually, via SAM.gov, whether they provide “covered telecommunications equipment or services as part of its offered products or services to the government in performance of any contract, subcontract, or other contractual instrument.” This representation has also been incorporated into FAR contracts via amendments, representations and certifications during costing, and new awards through FAR 52.212-3, 52.204-24 and 52.204-26.

**The scope of such restrictions warrants that research institutions identify not only faculty and staff use and procurement of such equipment and services, but also annually certify to their ability to comply with these restrictions.**

1. **Collaborated with units responsible for pre-award administration, compliance, procurement and asset management on the impacts of Section 889, applicable FAR clauses and representations, and 2 CFR 200.216 of the UG.**
2. **Assessed technology equipment and assets inventory to identify any potentially covered products and technology. Records show none exist at NYU.**
3. **Developed a list of all products manufactured by companies explicitly referenced in the statute. Removed all products from iBuy.**
  - **Huawei:** mobile phones, laptops, tablets, routers and switches
  - **ZTE Corporation:** mobile phones, mobile hotspots and network equipment, including routers and switches
  - **Hytera Communications Corporation:** radio transceivers and radio systems
  - **Dahua Technology Company and Hangzhou Hikvision Digital Technology:** video surveillance products and services (which may be part of a company's security system)
4. **Updated iBuy vendor list to note 200.216 compliance restrictions for companies explicitly referenced in the statute. Vendors cannot be reactivated in the iBuy Supplier Database – pending any further Uniform Guidance updates.**

- **International researchers and collaborations bolster us with not just talent and ambition, but also a broader way of understanding the world. They contribute to our success in developing new businesses and driving our economy. When we work and learn alongside researchers from other countries, cultures demystify, divides are bridged, and we see the commonalities of our shared humanity. This makes the world we all share a safer and more prosperous place.**
- **We would be hard-pressed to think of an impactful discovery, invention, artwork, performance or design work that didn't build on research in the modern era done by educators in many countries and from many countries.**
- **So while we are under heightened pressure and a presumably greater level of scrutiny around potential international conflicts of interest in our research and the confidentiality of proprietary information, GGIA&C will continue to help our faculty and students comply with existing and new guidelines.**
- **However, not for a moment are we going to diminish our commitment to being a welcoming place for students and faculty from all around the world, and to enhance the ability of our faculty and students to establish collaborations and partnerships with talented, hard-working colleagues in every country. Doing so would be counter to our academic mission and would diminish our value as a leading American university.**

- **Thank you!**
- **Contact info:**
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