



FEDERAL DEMONSTRATION PARTNERSHIP

Redefining the Government & University Research Partnership

Contracts

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Agenda

FAR Implementation of UG

Micro-Purchase Threshold

DFARS 7000-7012

FAR Controlled Unclassified Information

Data Stewardship Survey

Applicability of the Uniform Guidance to Federal Contracts

(9/10/2016)

	Cost-Reimbursement Procurement Contracts and Subcontracts	Fixed-Price Procurement Contracts and Subcontracts	Where it is stated	
			FAR (48 CFR 52)	UG (2 CFR 200)
UG Subpart A (200.0XX) Acronyms and Definitions	Yes	Yes	None	200.101(b)(1)
UG Subpart B (200.1XX) General Provisions (except 200.111-200.113)	Yes	Yes	None	200.101(b)(1)
UG Subpart C (200.2XX) Pre-Federal Award Requirements	No	No	None	200.101(b)(1)
UG Subpart D (200.3XX) Post Federal Award Requirements (except 200.303; 200.331-333)	No	No	None	200.101(b)(1)
UG Subpart D (200.303) Post Federal Award Requirements (Internal Controls)	Yes	Yes	None	200.101(b)(1)
UG Subpart D (200.330-332) Post Federal Award Requirements (Subrecipient Monitoring and Management)	Yes	Yes	None	200.101(b)(1)
UG Subpart E (200.4XX) Cost Principles	Yes	No	52.216-7, Alt II; 31.3	200.101(b)(1)
UG Subpart E (200.4XX) Cost Principles (Costs used in pricing of proposals)	Yes	Yes	None	200.401(a)
UG Subpart F (200.5XX) Audit Requirements	Yes	No	52.215-2, Alt II	200.101(b)(1)
UG Appendix III IHE F&A Costs Identification and Assignment	Yes	No	52.216-7, Alt II; 31.3	None

Except for 200.330-332, 200.4XX and 200.5XX, the terms of the contract and the FAR apply

None

200.101(b)(2)

When CAS applies to a contract, CAS takes precedence over UG Subpart E

None

200.101(b)(2); 200.401(b)

National Defense Authorization Act (12/19/16)

Section of Act	Title	Change to USC	Wording from Act	Implemented
Section 217(a)	Increased Micro-Purchase Threshold for DoD Basic Research Programs and Entities	10 USC 2339	Notwithstanding subsection (a) of section 1902 of title 41, the micro-purchase threshold for the Department of Defense for purposes of such section is \$10,000 for purposes of basic research programs and <i>for the activities of the Department of Defense science and technology reinvention laboratories.</i>	No mention
Section 217(b)	Increased Micro-Purchase Threshold for Universities, Independent Research Institutes, and Nonprofit Research Organizations	10 USC 2339	For purposes of this section, the micro-purchase threshold for procurement activities administrated under sections 6303 through 6305 of title 31 [contracts, grants & cooperative agreements] <i>by institutions of higher education, or related or affiliated nonprofit entities, or by nonprofit research organizations or independent research institutes</i> is: (a) \$10,000 or (b) such higher threshold as determined appropriate by the head of the relevant executive agency and consistent with clean audit findings, internal institutional risk assessment, or State law.	no mention
Section 821(a)	Increased Micro-Purchase Threshold Applicable to Department of Defense Procurements	10 USC 2338	Notwithstanding subsection (a) of section 1902 of title 41, the micro-purchase threshold <i>for the Department of Defense</i> for purposes of such section is \$5,000 ".	No mention

American Innovation and Competitiveness Act (1/6/2017)

Section of Act	Title	Change to USC	Wording from Act	Implemented
Section 207(a)	Micro-Purchase Threshold for Procurement Solicitations by Research Institutions	None	The micro-purchase threshold for procurement activities administered under sections 6303 through 6305 of title 31 [contracts, grants & cooperative agreements], <i>awarded by NASA, NSF and NIST to institutions of higher education, or related or affiliated nonprofit entities, or to nonprofit research organization or independent research institutes</i> is: (1) 10,000 or (2) such higher threshold as determined appropriate by the head of the relevant agency and consistent with audit findings, and internal institutional risk assessment, or State law.	Uniform Guidance



CUI Recap from September

- The Contracts group of FDP will collect thoughts and send to NARA regarding certain questions that will be addressed in the FAR clause, including who in the government makes the determination that information is CUI; how the government might oversee compliance; what would be appropriate milestones for completing an implementation plan; who would judge if "equivalent measures" are appropriate; and how will contractual liability be addressed.



CUI

Controlled Unclassified Information

32 CFR Part 2002

“Approach to Contractor Environment (FAR Clause)”



- **Identification, marking, and prior notice of all information requiring protection**
 - The FAR clause should emphasize that the contracting officer must comply with the marking requirements of the CUI registration. (and do so at RFP and contract stage)
 - The FAR clause should also clarify that the federal agency must notify the contractor prior to transmitting CUI.
- **Fundamental Research**
 - University information/data should not be included in the definition of federal CUI
 - The presumption should be that the presence or absence of CUI is independent of whether the work is fundamental research.



- **Identification of all CUI categories/subcategories and any CUI Specified requirements**
 - FAR clause should require contracts to indicate whether there will be CUI-Basic or CUI-Specified involved, identify each CUI category that will be furnished, and the security measures required
 - The FAR should be very specific on challenges and disputes. Until the dispute is resolved, the government should be prohibited from transmitting such information.
- **Oversight approach (possible use of System for Acquisition Management)**
 - Flexible certifications



CUI

- **Breaches and contractual liability**
 - The government should warrant that they have the right to share the CUI .
 - If the government fails to adequately follow the prior notice and marking requirements, the university should be held harmless for inadvertent releases of CUI.
- **NIST SP 800-171 under revisions to include SSP/POAM**
 - In cases where we cannot certify that we have a fully compliant system, the project-specific plan will be developed by the university and approved by the government.
 - Each agency should have a security officer that is designated in the contract as the CUI contact who has the authority to review and approve protection plans.



CUI

- **FAR alternates**

- The FAR should include clause alternates that are appropriate for the different types of contracts, contractors, and CUI.
- The terms should not be a mandatory flow down
- Where only subcontractor has CUI, the prime's obligation should be limited to oversight.
- Subcontractor and sponsor should execute an NDA.