East Coast Technical Assistance Center (ECTAC)

Orlando, FL

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THE SUPER CIRCULAR – "OMNI CIRCULAR"

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Key Dates:

- Feb 1, 2013 → NPRM
- Dec 19, 2013 → Final
- Dec 26, 2013 → Federal Register
- April 2014 → New OMB Compliance Supplement
- June 26, 2014 → ED Draft EDGAR Changes
- Dec 26, 2014 → Final EDGAR Published

Date of Applicability of Revised Rules

- All additions, after December 26, 2014
- All new grants after December 26,2014

? ? ?

What is covered?

- A-102 – Administrative Rules State / Local – Part 80 – EDGAR
- A-110 – Administrative Rules Postsecondary – Part 74 – EDGAR
- A-87 – Cost Rules – State / Local
- A-21 – Cost Rules – Rules – Postsecondary
- A-122 – Cost Rules – Nonprofit
- A-133 – Audit Rules (>$750,000)

Who is covered?

- All “nonfederal entities” expending federal awards

Reasons for the Change?

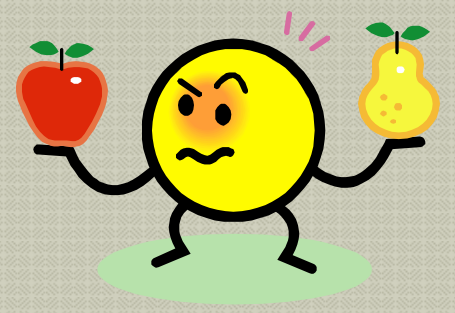
1. Simplicity
2. Consistency
3. Obama Executive Order on Regulatory Review
   - Increase Efficiency
   - Strengthen Oversight

Who crafted the changes?

- "COFAR"
  - Council on Financial Assistance Reform, and Key Stakeholders
  - www.cfo.gov/cofar

Inconsistency Between Program Statute and Circular

- If federal program statute differs from Omni Circular, then statute / regulation governs.



Most Significant Change

- Shift from focus on *Compliance* to focus on PERFORMANCE!!!

Performance

- Auditors (A-133 + Federal OIG) and Monitors (Federal and State Pass Through) must look more to “outcomes” than to “process”

Most Significant Changes

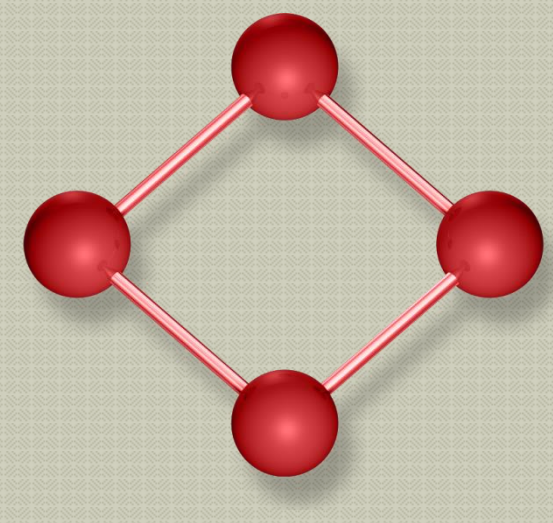
- The Omni Circular has a MAJOR emphasis on "strengthening accountability" by improving policies that protect against waste, fraud and abuse

Flexibility

- The “Omni Circular” adds significant flexibility to way grantee / subgrantee can adopt their own processes

Structure of Omni-Circular (p. 78608)

2 CFR PART 200



(p. 78608)

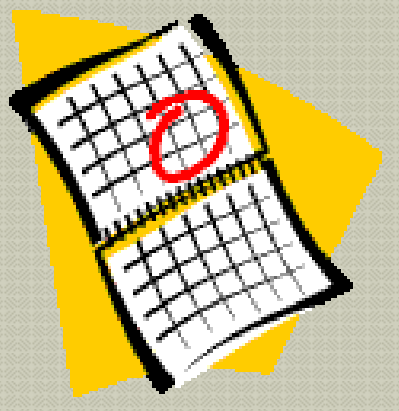
- Subpart A – Definitions
- Subpart B – General Provisions
- Subpart C – Pre Award Requirements
- Subpart D – Post Award Requirements
- Subpart E – Cost Principles
- Subpart F – Audit Requirments

Key Definitions

- Cognizant Agency for Audit 200.18 (78611)
- Cognizant Agency for Indirect 200.19 (78611)
- Computing Devices 200.20 (78612)
- Cooperative Audit Resolution 200.25 (78612)
- Cost Objective 200.28 (78612)

- Internal Control Over Compliance 200.52 (78615)
- Major Program 200.65 (78615)
- Micro Purchase 200.67 (78615)
- Modified Total Direct Cost 200.68 (78615)
- Non-Federal Entity 200.69 (78615)

- Effective Date
  - 200.110 (78621)



- Conflict of Interest
  - 200.112 (78621)

- Mandatory Disclosures
  - 200.113 (78621)

Financial Management Controls

The Key Component to Federal Grants

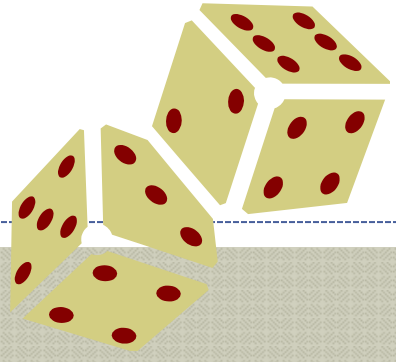
Quick Overview of Major Themes:

1. Performance Metrics
2. Risk Management
3. Augmented Pass-Through Responsibilities
4. Emphasis on Immediate Corrective Action
5. Cooperative Audit Resolution

WHY??

All oversight will examine financial management controls:

1) OIG Audit
2) Single Audit
3) Federal Program Monitoring
4) “Pass Through” Monitoring



- New Risk Assessment Will be Based on Financial Management Controls

- The more attention paid to financial management controls, fewer headaches down the road!!!

Crosswork Between 34 CFR 80.20 (b) and CFR 200.302(b)

34 CFR 80.20 (b)	2 CFR 200.302 (b)
1. Financial Reporting	1. Identification of Awards
2. Accounting Records	2. Financial Reporting
3. Internal Control	3. Accounting Records (Source Docs)
4. Budget Control	4. Internal Control
5. Allowable Cost	5. Budget Control
6. Source Documentation	6. Written Cash Management Procedures
7. Cash Management	7. Written Allowability Procedures

1) Identification of Awards (New)

- All federal “awards” received and expended
- The name of the federal “program”
- Identification # of award
  - CFDA Title and Number
  - Federal Award I.D. #
  - Fiscal Year of Award
  - Federal Agency
  - Pass-Through (If S/A)

2) Financial Reporting

- New shift to OMB approved performance metrics

2) Financial Reporting (cont.)

- Accurate, current, complete disclosure of financial results of each award
- (Old) in accord with the financial reporting requirements of the grant
- (New) in accord with 200.327 and 200.328
- 200.327 – Federal awarding agency can only collect OMB approved data elements, no less than annually, no more than quarterly
- 200.328 – Non federal entity must submit performance reports at intervals required by federal agency or pass through. Annual performance reports due 90 days after reporting period; Quarterly performance reports due 30 days after reporting period

2) Financial Reporting (cont.)

- Performance Metrics:
  1. Compare actual accomplishments to objectives. (quantify to extent possible)
  2. Reasons goals were not met if appropriate
  3. Additional pertinent information (e.g. analysis and explanation of cost overruns, high unit costs)

2) Financial Reporting (cont.)

4. Significant developments
   a. Problems, delays. Adverse conditions that would impair ability to meet objective of the award
   b. Favorable developments. Finishing sooner or at less cost

2) Financial Reporting (Cont.)

- OMB Allows ED to waive "performance metrics" not required.

- How will ED reconcile performance metrics with accountability / performance indicators of ESEA, IDEA, CTE, AEFLA

3) Accounting Records (Source Documentation)

- Combines 80.20 (b)(2) and 80.20 (b)(6)
- Source Documentation on:
  1. Federal Awards
  2. Authorizations
  3. Obligations
  4. Unobligated balances
  5. Assets
  6. Expenditures
  7. Income
  8. Interest (New)
- Eliminated ⟹ liabilities

4) Internal Control

- Essentially same as 80.20 (b) (3)
- Effective control over and accountability for:
  1. All funds
  2. Property
  3. Other assets
- Must adequately safeguard all assets
- Use assets solely for authorized purpose

4) Internal Control 200.303 (cont.)

- Cross reference 200.303 (New)
- Internal controls “should” be in compliance with Comptroller General’s “Standard for Internal Control Integrated Framework” and “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (see attachment)

4) Internal Control 200.303 (cont.)

- Comply with federal statutes, regs, terms of the award
- Evaluate and monitor compliance
- Take prompt action when instances of noncompliance are identified
- Safeguard protected personally identifiable information

5) Budget Control

- Same as 80.20 (b)(4)
- Comparison of expenditures with budget amounts for each award

6) Written Cash Management Procedures (New)

- Written Procedures to implement the requirements of 200.305

6) Written Cash Management Procedures (cont.)

- For states, payments are governed by Treasury – State CMIA agreements 31 CFR Part 205
- No Change

6) Written Cash Management Procedures (cont.)

- For all other non federal entities, payments must minimize time elapsing between draw from G-5 and disbursement (not obligation)

6) Written Cash Management Procedures (cont.)

- Written procedures must describe whether non-federal entity uses:
  1) Advance Payments (preferred)
     - Limited to minimum amounts needed to meet immediate cash needs
  2) Reimbursement
     - Pass through must make payment within 30 calendar days after receipt of the billing
  3) Working Capital Advance
     - The pass through determines that the nonfederal entity lacks sufficient working capital. ➡ Allows advance payment to cover estimated disbursement needs for initial period

6) Written Cash Management Procedures (cont.)

- Non federal entity must use existing resources before requesting an advance: program income, refunds, rebates, interest earned

6) Written Cash Management Procedures (cont.)

- Payments must not be withheld from nonfederal entities unless finding of noncompliance debt to the U.S., or nonfederal entity is withholding payment to a vendor to assure satisfactory completion of work

6) Written Cash Management Procedures (cont.)

- Advances must be maintained in insured accounts
- Pass through cannot require separate depository accounts
- Accounts must be interest bearing unless:
  1. Aggregate federal awards under $120,000
  2. Account not expected to earn in excess of $500 per year
  3. Bank require minimum balance so high, that such account not feasible

6) Written Cash Management Procedures (cont.)

- Interest earned must be remitted annually to HHS
- Interest amounts up to $500 may be retained by non federal entity for administrative purposes

7) Written Allowability Procedures (New)

- Written procedures for determining allowability of costs in accord with Subpart E – Cost Principles (see p. 78639 – 78662)

7) Written Allowability Procedures (Cont.)

- Not a restatement of Subpart E
- But a GPS through grant development and budget process
- Training tool for employees

- Internal Controls
  - 200.303 (78625)

- Payment
  - 200.305 (78625)

- Program Income
  - 200.307 (78627)

- Revision of Budget and Program Plans
  - 200.308 (78628)

- Period of Performance
  - 200.309 (78629)

- Insurance Coverage
  - 200.311 (78629)
    - Compare to 34 CFR 76.708

- Equipment
  - 200.313 (78629)

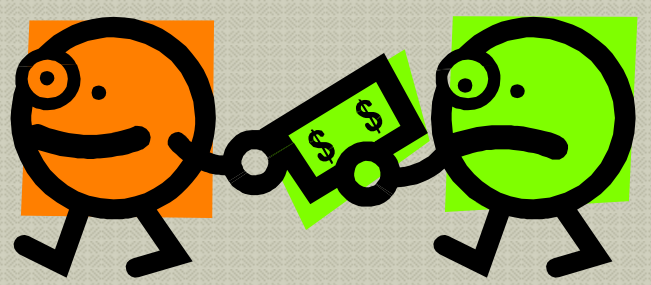
- Supplies
  - 200.314 (78630)

Procurement (78631)

- By states 200.317
- General Procurement Standards 200.318
- Competition 200.319
- Methods of Procurement 200.320
- Cost and Price 200.323

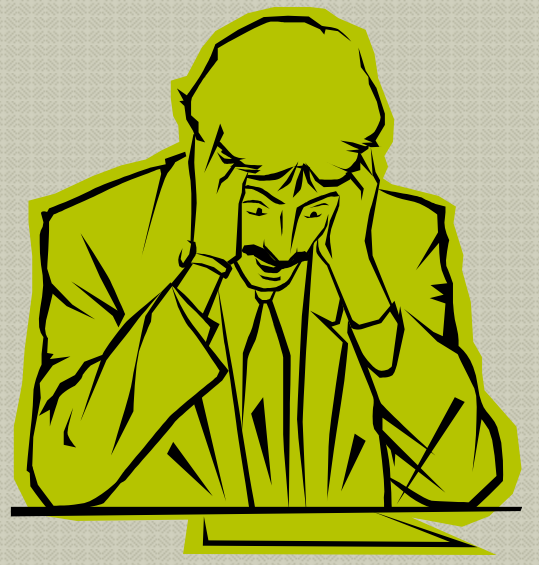
- Contract vs. Grant 200.330

Pass-Through Agency Responsibilities

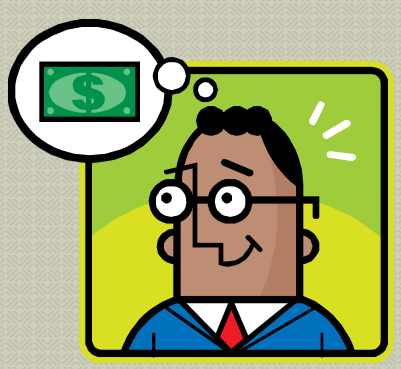


Show me the money!!!

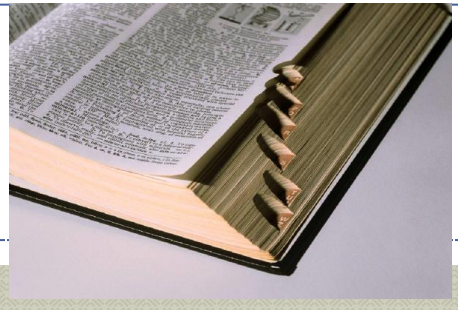
What was COFAR Thinking?



If A-133 cost and S/A costs come from the same pot of fund, perhaps SEAs will do a better job



Will pass-through agencies embrace "performance metrics" more effectively?



- A pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

-200.74

(e.g. ESEA, IDEA, CTE, AEFLA)

- Under EDGAR / A-102, pass through responsibilities primarily described in 34 CFR 80.40 – Monitoring of Subgrantees
- (Note – Part 76* on S/A programs will not change significantly)

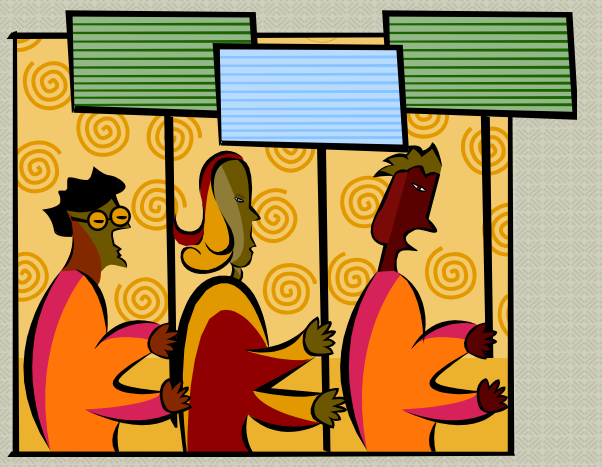
*And Part 75

- But OMB / COFAR shifted many new responsibilities to the pass-through, over and above 80.40

- Omni Circular NPRM (February 1, 2013) proposed reduction of the number of types of compliance requirements in the compliance supplement

- Many pass-throughs opposed this reduction because of burden on them. OMB punted

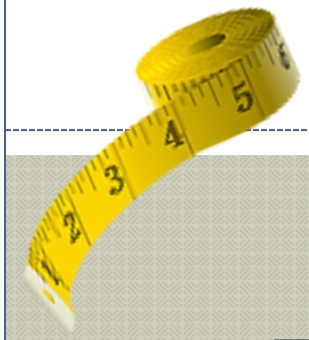
  p. 78608



Monitoring Responsibilities of the Pass-Through (17) 200.328 → 34 CFR 80.40

- Non federal entity is responsible for oversight of the operations of the federally supported activities

Measuring Performance → "Performance Metrics" 200.328(b)



- The non federal entity must submit the performance metrics to the pass-through
  - 200.32(b)

The Big Question

- How will ED (OESE, OSERS, OPE, OCTAE) reconcile the OMB required performance metrics with the current statutory / regulatory performance / accountability indicators?

- In many instances OMB performance metrics are more detailed

Specific Requirements for Pass-Through (200.331)

- Ensure that every subaward contains the following information relating to federal award identification:
  1. Subrecipient name (must match registered name in DUNS)
  2. Subrecipient DUNS # (Data Universal Numbering System)
  3. Federal Award Identification Number (FAIN)
  4. Federal Award Date

Specific Requirements for Pass-Through (200.331) (cont.)

5. Period of performance start and end date
6. "Amount of federal funds "obligated" by this action"??
7. "Total amount of Federal funds "obligated" to the subrecipient" ??
8. "Total amount of the federal award"

Specific Requirements for Pass-Through (200.331) (cont.)

9. Federal award project description for FFATA purposes
10. Name of federal awarding agency, pass-through agency, and contact official
11. Is the award for “research and development” ?
12. The indirect cost rate (restricted vs. unrestricted)

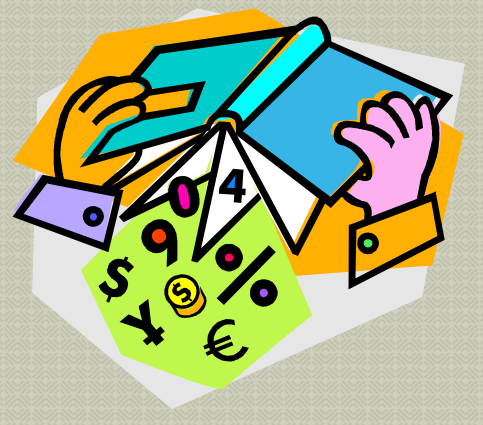
- The pass-through must reference the requirements of the federal grant and any additional requirements imposed by the pass-through (i.e. state-administered programs)

(Incorporate by reference)

Compare 200.331(a)(1)(xiii) to 200.331(a)(4) on indirect costs

- What is the relevance of the approved federally recognized indirect cost rate in state-administered programs with a non supplant provision?
- Must pass-through negotiate restricted rates, and must sub-grantees use them?

- Pass through must seek an assurance from subgrantees that access will be provided to records and financial statements

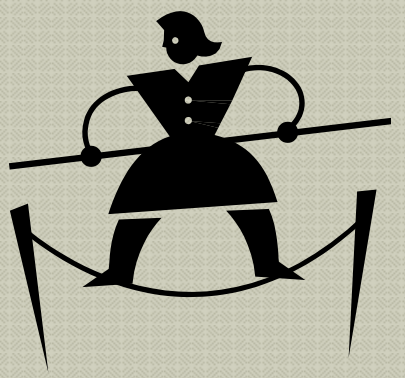


New Risk management Requirements for Pass-Throughs

- Pass-through must evaluate each subrecipient's risk of non compliance (federal statute / regulations / terms of award) for purpose of monitoring

200.331

- Risk Factors:
  1. Subrecipient's prior experience with the grant program
  2. Results of previous audits
  3. New personnel or substantially changed systems
  4. Results of federal monitoring



200.331

- Pass-through may impose conditions on subgrant based on risk assessment:
  1. Shift to reimbursement
  2. Withhold payments until evidence of acceptable performance
  3. Require more reporting
  4. Require additional monitoring
  5. Require additional technical or management assistance
  6. Establish additional prior approvals

200.331

- Pass-through must monitor its subrecipients to assure compliance and performance goals are achieved

200.331

- Monitoring must include:
  1. Review financial and programmatic reports
  2. Ensure corrective action
  3. Issue a “management decision” on audit findings if the award is from the pass-through

200.331

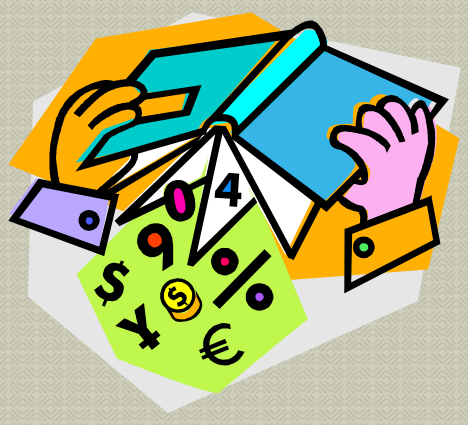
- Types of monitoring tools (depending on risk assessment)
  1. Providing training and technical assistance
  2. On-site reviews
  3. Arranging for “agreed upon procedures” (less than $750,000)

200.331

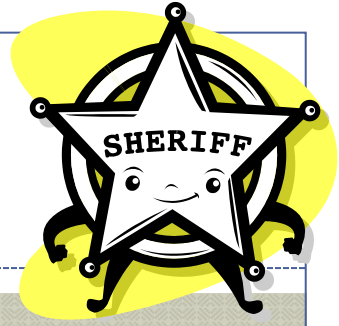
- Pass-through must verify all subrecipients (> $750,000) have single audits

200.331

- Pass-through must adjust its own financial records based on audits, monitoring, on-site reviews



200.331



- Pass-through must consider taking enforcement action based on non compliance:
  1. Temporarily withhold cash payments pending correction
  2. Disallow all or part of the cost
  3. Wholly or partly suspend the award
  4. Recommend to federal awarding agency suspension / debarment
  5. Withhold further federal awards
  6. Other remedies that may be legally available

200.339

- The pass-through may terminate the award for "cause", notice and opportunity for hearing (200.340 and 200.341)

Ready To Retire!!!

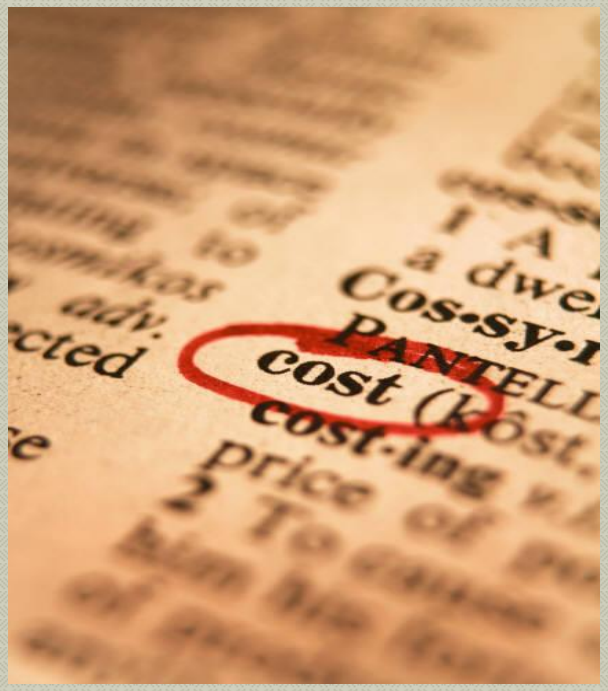
Record Retention (78636)

- Retention 200.333
- Collection and Transmission 200.335
- Access 220.336

Non-Compliance (78637)

- Remedies 200.328
- Termination 200.339
- Notification 200.340
- Appeals 200.341
- Suspension 200.342
- Collection of Amounts Due 200.345

Subpart E – Cost Principles (78639)



- Policy Guide 200.400 (78639)

Basic Considerations (78640)

- Composition of Costs 200.402
- Allowability 200.403
- Reasonable Costs 200.404
- Allocability 200.405
- Applicable Credits 200.406
- Prior Written Approval 200.407

Direct and Indirect Costs (78642)

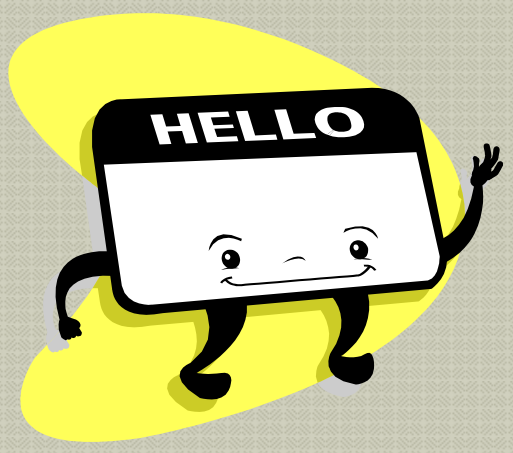
- Composition of Costs 200.412
- Direct Costs 200.413
- Indirect Costs 200.414

- False Claims Certifications
  - 200.415 (78643)

- Promotional Costs
  - 200.421 (78645)

- Personnel Compensation
  - 200.430 (78646)

- Conferences
  - 200.432 (78650)



- Costs of Appeals
  - 200.435 (78651)

- Employee Morale
  - 200.437 (78652)

- Memberships
  - 200.454 (78657)

- Student Activity Costs
  - 200.469 (78660)

- Travel Costs
  - 200.474 (78661)

- Audits
  - 200.500 (78662)

- Audit Requirements
  - 200.501 (78662)

- Relation to Other Audits
  - 200.503 (78663)

- Audit Findings Follow-Up
  - 200.511 (78665)

- Questioned Costs
  - 200.516 (78669)

- Major Program Determination
  - 200.518 (78670)

Questions?

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