

NCURA AM59 US Federal Funds Post Award and Audit Issues



LEES attended the [59th Annual Meeting](#) of the National Council of University Research Administrators in Washington, DC, to understand current issues for UK institutions in respect of Research Grants from US Federal Sources. This is especially pertinent as US Federal Funds have been subject to a major programme of integration under an umbrella of regulations known as the [Uniform Guidance](#).

Audit Issues

Single Audit – What's the Scope?

US Institutions are required to have a Single Audit (previously known as an A-133 audit) of their grants from Federal Sources in accordance with Subpart F of the [Uniform Guidance](#). However, Section 200.101 (Applicability) states in paragraph (c) that the Audit Subpart does not apply to foreign organisations.

Instead, foreign institutions are required to comply with any contracted audit requirements from each individual Federal Agency, or the specific project Terms & Conditions.

The following table summarises the audit requirements for DHHS and USAID grants awarded to foreign institutions. After discussions with various Office of Inspector General contacts, these are the only two major agencies that decree that an annual audit must be carried out by foreign organisations. We must stress that individual audit requirements may be stipulated in each specific Grant Agreement from other Federal Agencies, including DoD, so these must be consulted first:

Agency	Audit Threshold FY 15/16	Legislation
Department of Health and Human Services (e.g. NIH, CDC, etc)	\$750,000	45 CFR 75 Subpart F NIH Grants Policy Statement
USAID (International Development)	\$300,000	Guidelines For Financial Audits Contracted By Foreign Recipients

We have found that many US prime awardees (known as Pass-Through Entities) request that their Subrecipients include grants from **all** Federal Agencies within their annual audit to provide assurance as part of their Subrecipient Risk Assessment and Monitoring obligations. UK institutions that choose to include all Federal Agencies within their Single Audit may therefore be regarded as lower risk by their prime awardees, reducing the amount of evidence they are required to provide with their financial claims.

We should also add that Pass-Through Entities may not necessarily know that the Uniform Guidance Audit Subpart F does not apply to foreign organisations, so may request the Single Audit Report nonetheless.

It is ultimately a management decision for the foreign institution as to whether they choose to include grants from all Federal Agencies in their audit, although as auditors, we do recommend that all funders are included.

DHHS (NIH) Audit

Many large UK HEIs are therefore required to have their Department of Health and Human Services (DHHS) grants audited in accordance with [45 CFR 75 Subpart F](#).

DHHS Audit – What’s included?

For foreign institutions, the audit threshold stands at \$750,000 expended over DHHS grants for financial years starting after 26 December 2014 (ie FY 15/16 onwards for UK HEIs). This threshold is based on grants and subawards; fixed price contracts are **not** included in the audit, nor the threshold calculation. Therefore, if a UK university expends in their financial year \$350,000 on NIH grants, and \$500,000 on Department of Defense grants they **do not** require a mandatory Single Audit.

See [FAQS](#) and [example calculations](#) from NIH.

What do I do with my report?

Foreign institutions are **not** required to file their audit report on the Federal Audit Clearing House. Instead, they should provide it to any Pass-Through Entities and Federal Agencies that request it (perhaps by hosting it on their website). They should also mail a hard copy to:

Department of Health and Human Services
Office of Inspector General
Office of Audit Services
National External Audit Review Center
1100 Walnut Street, Suite 850
Kansas City, MO 64106-2197

As per [45 CFR 75.512](#), audits should be completed and submitted within nine months after the end of the organisation’s fiscal year.

Post Award – Subrecipient Risk Assessment and Monitoring

Pass-Through Entities are required by the Uniform Guidance ([2 CFR 200.330 – 332](#)) to perform risk assessments and regularly monitor their subrecipients.

UK HEIs that act as Pass-Through Entities **must** have a procedure in place to ensure that their subrecipients across grants from **all** Federal agencies:

- Have a [DUNS number](#)
- Are registered on the [System for Award Management](#)
- Are aware of their obligations under the prime contract including the Federal Awarding Agency Contract Number and [CFDA number](#)
- Are assessed for their risk both at contract inception and regularly (annually) thereafter

Subrecipients that are regarded as high risk must have specific actions taken against them to mitigate this risk. This might include:

- Requesting more frequent invoices (e.g. monthly)
- Requiring a reconciled ledger breakdown of costs incurred with each invoice
- Requiring scans of backing receipts/invoices with each invoice
- Requesting that the subrecipient has an audit, either by the Pass-Through Entity or via the principles set out in the Single Audit.
- Site visits by the Pass-Through Entity.

There are a number of (free!) useful resources available, including Risk Assessment Questionnaires (RAQs) and Continuing Assessment Tools (CATs) via the [Federal Demonstration Partnership](#).

Note that an assessment of controls over subrecipient monitoring forms part of the audit procedures.

Section [2 CFR 200.331 \(f\)](#) requires that pass-through entities to “verify that every subrecipient is audited as required by Subpart F Audit Requirements of this part when it is expected that the subrecipient’s Federal awards expended during the respective fiscal year equalled or exceeded the threshold set out in 200.501 Audit requirements”. Additionally, 200.331.d2 states that a pass-through entity’s monitoring of subrecipients must include “following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity”. This means that just saying a subrecipient has an A-133 audit is not sufficient: the pass-through entity must analyse their report and follow-up as required.

Cost Principle Issues

Now that the Uniform Guidance has come into effect, the following issues are relevant to grants from **all** US Federal Agencies, unless where stated otherwise below.

Staff Costs

Many UK HEIs are compliant with effort reporting regulations on US Federal Funds and only allow for DI staff costs based on sound calculations and timesheets. A staff member cannot be fully 100% employed on a project if they are writing proposals. Auditors may also consider interviews with key personnel to verify effort reported on grants.

DA staff costs could be considered eligible if the effort expended is reviewed, reported and authorised by the PI on a regular basis and any variances in the effort expended are identified and rectified on ledgers as necessary.

It can be noted that due to salary banding at many institutions, DA costs will usually lead to an underclaim to actual costs incurred. However, systems **must** be put in place to ensure that DA costs charged are based on actual effort expended and the effort is accurately reported in a timely manner. Ultimately, costs claimed must be based on evidenced actuals, not budgeted amounts.

Directly Allocated Facilities Costs

In a similar vein, it is important that any Research Facilities are based on actual evidenced usage of the facilities at an auditable rate that does not include a markup, as per [2 CFR 200.468 - Specialized service facilities](#).

NIH Salary Cap

On NIH awards, salaries for staff in excess of the [NIH Salary Cap](#) are ineligible and must be restricted to the value of the cap when making claims to the NIH. Inflationary increases in the cap can be included in funding proposals.

Prior Written Approvals

Prior written approvals must be obtained from the funder if there is:

- A change in PI
- A change in the Scope of Work
- Unbudgeted expenditure
- A >25% change in key personnel effort compared to the budget
- Pre-award spending

Computers & Tablets

These must be purchased *specifically* for the project (note the previous guidance used to state *solely*). Auditors can request to actually see the iPads or computers, and ensure they are used 100%

on the project (i.e., no Facebook or other apps downloaded!). In practice, most US Institutions therefore only charge 90-95% of a computer to a project to cover personal usage. Computers are considered a consumable cost, unless the cost breaches the equipment threshold.

Equipment

Equipment is defined as the lower of \$5k or the internal beneficiary policy. Therefore if the internal policy is \$1.5k, then this is deemed equipment for Uniform Guidance. Beneficiaries must be able to track equipment purchased on Federal Funds and auditors must be able to inspect fabricated equipment.

Travel

It is always best to ask and document: who, what, where, when, why and how and retain for audit.

Procurement Policy

Like many funders, the US Federal Agencies are becoming more wary of institutions that do not comply with established procurement and tendering policies. The Uniform Guidance loosely aligns with policies in place at most UK institutions, Micro-Purchases (Anything less than \$3,500.00) do not require alternative quotations. Full details are listed in [2 CFR 200.320](#).

Overheads

NIH awards have a fixed 8% F&A (overhead) rate for foreign institutions. During a visit to the NIH as an add-on to the NCURA AM 59, the NIH stated that they were considering an increase to the F&A rate to 10% **but** they would bring back the requirement to spend this 10% F&A rate on compliance costs **only**. Therefore, this 10% could only cover costs such as audit and import control, and must be substantiated, rather than being used to support general HEI running costs. Section [200.514b](#) requires that the Single Audit must include a determination of whether the financial statements of the auditee are presented in accordance with generally accepted accounting principles. There is therefore an argument to state that a portion of a University's statutory financial statement audit could be deemed an allowable compliance cost.

For grants from other Federal Agencies, UK institutions have the option to charge a 10% flat *deminimis* rate with no justification, or they may elect to negotiate an Indirect Cost rate with a Federal Agency (See [2 CFR 200.414](#)). Note that we are not currently aware of any UK institution that has done this, as the F&A guidelines are somewhat incongruent with TRAC principles.

Order of Precedence

The following order of precedence is applicable to grants from Federal Agencies. Where a higher item on the list is silent on an issue, the lower tier rule must be followed:

1. Award Terms & Conditions
2. Program Specific Guidelines
3. Agency Specific Guidelines (i.e. NSF, HHS, USDA, etc)
4. OMB Uniform Guidance

90 Day Rule – NIH Grants

On NIH projects, transfers of costs from one project to another or from one competitive segment to the next solely to cover cost overruns are not allowable. Grantees must maintain documentation of any cost transfers and these should be made within 90 days of the original posting and supported by documentation that fully explains how the error occurred. See [section 7.5](#) of the NIH Grants Policy Statement.

Uniform Guidance and the COFAR

The Council on Financial Assistance Reform (COFAR) have put together some Frequently Asked Questions on the Uniform Guidance. The majority of these are pertinent to mainly US organisations, but have a read through it and you may learn some useful nuggets of information (including the “Procurement Claw”).

<https://cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf>

Cash Management and Draw-Downs

The NIH has published a list of the Top Ten Pitfalls for Foreign Grantees, we’ll provide the link shortly when it’s released by NCURA.

In our opinion, the key point to note is:

- Any funds drawn down should be expended within 3 days. Draw downs must therefore be based on **actual** costs, rather than lump sums. In reality, we strongly recommend that all drawdowns are therefore made in arrears.