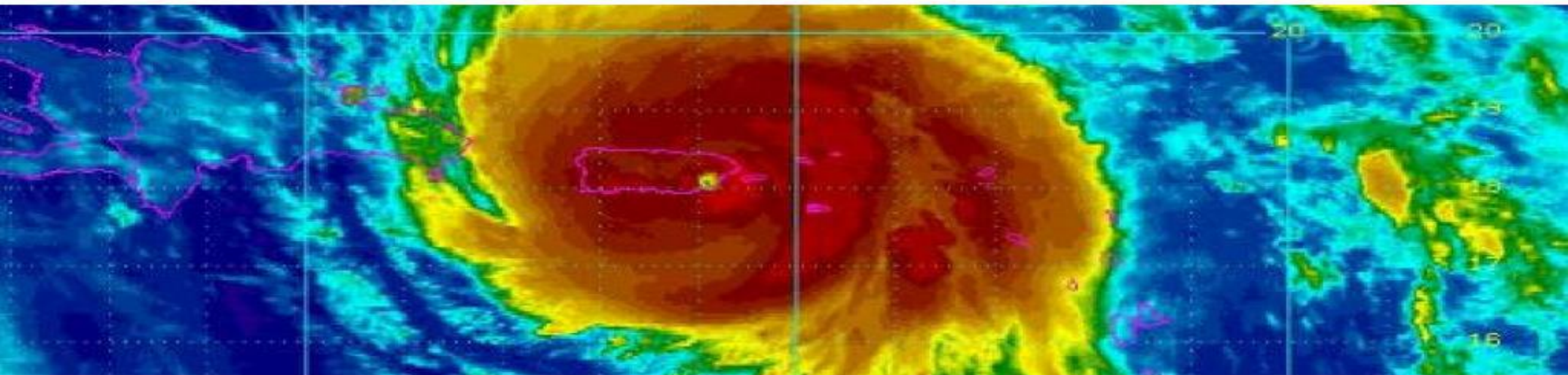


HURRICANE MARIA CAPACITY BUILDING PROGRAM



FEMA





Summary
Federal Grant
Regulations

History of Grant Policy

- Federal grants are awarded each year for programs and projects that benefit the public. This assistance is rooted in the Constitution and its call to "promote the general Welfare.
- 1970's, however, that Federal grant policy began to evolve into what it is today.
- Federal Grant and Cooperative Agreement Act, passed in 1977, set out to guide government agencies in their use of Federal funds
- Office of Management and Budget (OMB) published guidance in 1978 directing agencies to ensure that grants funds be used only for assistance-based programs and projects.

Policy Formation

- Congress creates the grant-related laws and regulations
- The Executive Office of the President – of which OMB is part – helps to implement the laws through Executive Orders and Guidance that define administrative rules.
- the grant-making agencies create internal and external policies and procedures based on the OMB guidance. These agency-specific policies for award recipients do not carry the weight of law, though they may be required of award recipients if they are listed in the Notice of Award.

Federal Grant Policy-Making Community

Body	Description	Activities	Role in Grant Community
Congress	Senate and House of Representatives	Passes statutes and regulations that are signed into law by the President	Lays the foundation for Federal grant policy through legislation Appropriates funds to Federal agencies
The White House (President of USA)	Executive Office of the President	Ensures that laws are implemented and enforced President serves as head-of-state and commander-in-chief President signs or vetoes legislation from Congress	Appoints heads of Federal agencies that award grants to applicants Issues Executive Orders relevant to grant policy formation and legislation

Federal Grant Policy-Making Community

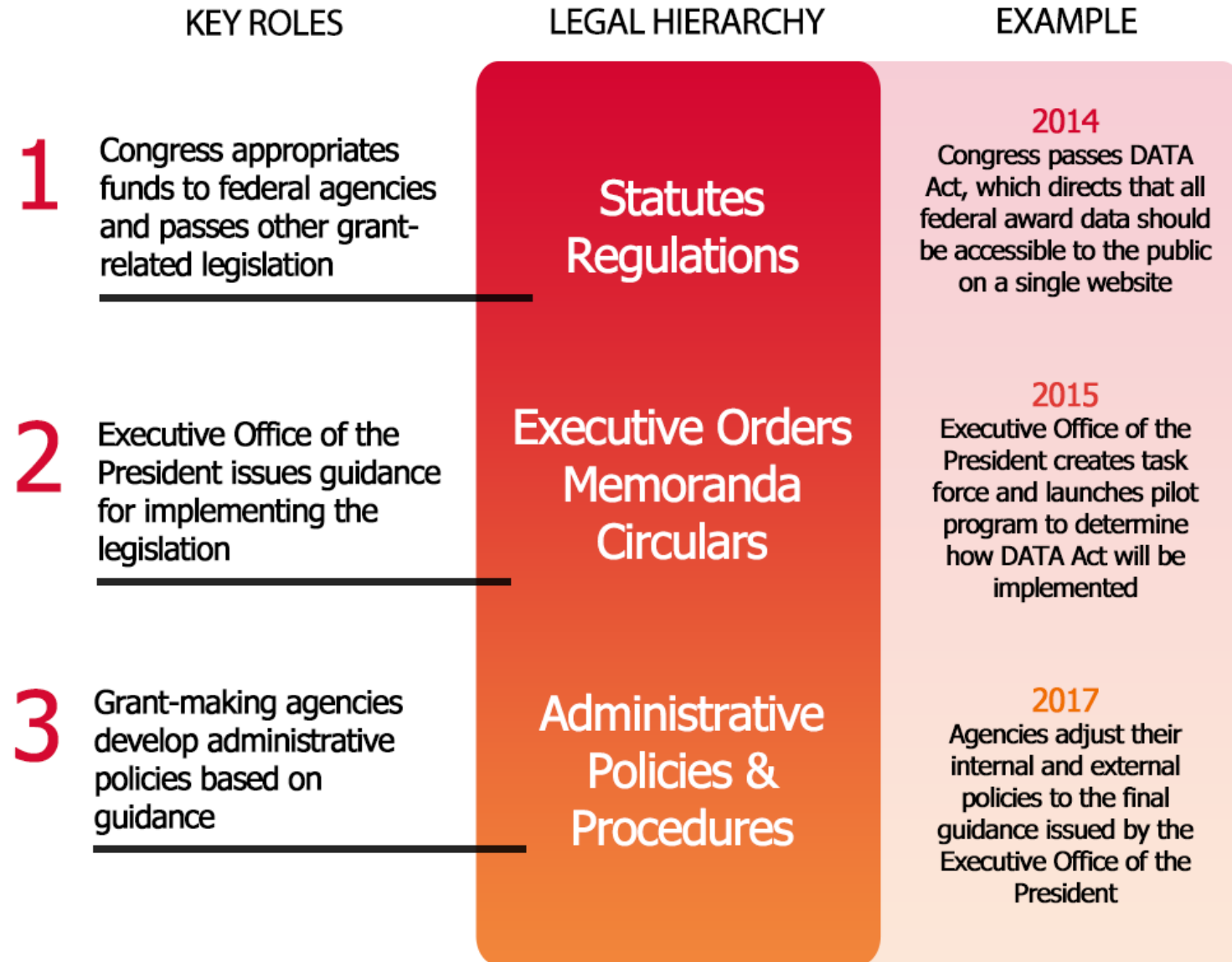
Body	Description	Activities	Role in Grant Community
Office of Management and Budget (OMB)	Largest component of the Executive Office of the President	Manages the budget development and execution of Federal government departments and agencies. Guides their implementation of laws and regulations	Issues circulars with guidance for grant-making agencies, such as the "Uniform Guidance" that was implemented in 2014 Receives recommendations from the Council on Financial Assistance Reform (COFAR)
Grant-making Federal departments and agencies	Bodies that serve and protect the public and receive funding from Congress	Run programs that serve the public Assist Congress in the drafting of regulations	Award grants with funds from congressional appropriations under the direction of the agency head Create agency-specific, grant-related policies (internal and external) based on guidance from OMB

Federal Grant Policy-Making Community

Body	Description	Activities	Role in Grant Community
Government Accountability Office (GAO)	Investigative organization that reports to Congress	Audits and generates reports on work done across the Federal government Ensures that taxpayer dollars are being spent effectively and efficiently	Publishes occasional reports on Federal grant policy

How Federal Grant Policies Are Made

When a new law is added to the books, that is only the beginning.



SOURCE: NATIONAL GRANTS MANAGEMENT ASSOCIATION

Key Legislation

- Federal Grant and Cooperative Agreement Act (1977)
- Lobbying Disclosure Act (1995)
- Single Audit Act Amendments of 1996
- Public Law 106-107 (1999)
- Federal Funding Accountability and Transparency Act (2006)
- Executive Order 13576 (2011)
- Office of Management and Budget Uniform Guidance (2014)
- DATA Act (2014)
- GONE Act (2016)

Federal Grant and Cooperative Agreement Act (1977)

- The Federal Grant and Cooperative Agreement Act set out to guide government agencies in their use of Federal funds – particularly by distinguishing between contracts, cooperative agreements and grants.
 - Contracts, the law states, are awarded when a Federal agency is acquiring something.
 - Grants and cooperative agreements are awarded when a Federal agency is providing assistance – the latter involving a greater degree of participation and oversight by the agency.

Lobbying Disclosure Act (1995)

- The Lobbying Disclosure Act created, among other things, a comprehensive reporting and disclosure structure for lobbyists.
- While entities that receive Federal awards, such as nonprofit organizations, may lobby the Federal government, all Federal lobbying efforts must be paid for with non-Federal funds. The law also limits, in some cases, the amount or percentage of money an organization can spend on lobbying.

Single Audit Act Amendments of 1996

- Building on the Single Audit Act of 1984, the 1996 amendments laid out updated audit requirements for organizations and people who receive Federal awards.
 - Auditing process so that award recipients only have to conduct a single, annual audit instead of conducting multiple audits of individual programs.

Public Law 106-107 (1999)

- The Federal Financial Assistance Management Improvement Act of 1999, was passed by Congress to improve coordination among grant-making agencies. To make the application and reporting process more consistent for people and organizations seeking Federal awards.
- Although P.L. 106-107 expired in 2007, some of its initiatives are still in place. Others have continued to evolve.

FFATA (2006)

Federal Funding Accountability and Transparency Act

- Requires information about Federal awards to be posted on a single, searchable website that is open for public access.
- Recipients of Federal awards were required to begin reporting data using the FFATA Subaward Reporting System (FSRS) tool.

Executive Order 13576 (2011)

Delivering an Efficient, Effective and Accountable Government

- The creation of the Government Accountability and Transparency Board (GATB) in 2011.
- This board was directed to provide "strategic direction for enhancing the transparency of Federal spending," including the awarding and use of Federal grants. GATB's responsibilities include studying data sharing tools and creating a set of best practices that can guide the Federal government in its spending transparency reforms. The work of GATB helped to inform the creation of the 2014 DATA Act.

DATA Act (2014)

Digital Accountability and Transparency Act

- Expands on federal awards reporting reforms that began with the Federal Funding Accountability and Transparency Act of 2006.
- The purpose of the DATA Act is to improve the quality and transparency of the Federal Government's award data. The Department of the Treasury and the Office of Management and Budget (OMB) to create government-wide standards for reporting spending data associated with Federal awards.

Office of Management and Budget Uniform Guidance (2014)

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Commonly called "Uniform Guidance", "Super Circular"
- The Uniform Guidance – a "government-wide framework for grants management" – is an authoritative set of rules and requirements for Federal awards that synthesizes and supersedes guidance from earlier OMB circulars.*

**The Guidance was drawn from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in past OMB guidances); Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up*

Office of Management and Budget Uniform Guidance (2014)

- Aim to reduce the administrative burden on award recipients and, at the same time, guard against the risk of waste and misuse of Federal funds. Among other things, the OMB's Uniform Guidance does the following:
 - Removes previous guidance that is conflicting and establishes standard language;
 - Directs the focus of audits on areas that have been identified as at risk for waste, fraud and abuse;
 - Lays the groundwork for Federal agencies to standardize the processing of data;
 - Clarifies and updates cost reporting guidelines for award recipients.

Uniform Guidance: Summary

- Allow nonprofits and other organizations that have never been reimbursed for indirect costs to use a standard minimum rate that supports the fundamental operations of the organization; removing a key barrier to entry and opening up competition for Federal awards.
- Raise the threshold for required audits from \$500,000 to \$750,000 in Federal awards expended per year, maintaining oversight for 99% of dollars audited now, but focusing the resources to reduce risk of waste, fraud, and abuse.

Uniform Guidance: Summary

- The definition of what constitutes an allowable cost remains essentially the same (i.e., necessary, reasonable, allocable, allowable, and consistently treated)
- Voluntary committed cost sharing is not expected under Federal research proposals and cannot be used as a factor during the merit review of the proposal.
- OMB is emphasizing a strict closeout requirement of 90 days in the Uniform Guidance. Because it is sometimes difficult to get subrecipients paid within 90 days of close, we may need to consider establishing earlier end dates for subrecipients.

GONE Act (2016)

Grants Oversight and New Efficiency Act

- The goal of the GONE Act is to close out expired grants. The GONE Act requires the OMB to instruct each agency, in coordination with the Department of Health and Human Services (HHS), to submit to Congress and HHS by December 31 of the first calendar year beginning after this Act's enactment a report that:
 - Lists each federal grant award held by such agency
 - Provides the total number of federal grant awards, including the number of grants by time period of expiration, the number with zero dollar balances, and the number with undisbursed balances
 - Describes the challenges leading to delays in grant closeout
 - Explains, for the 30 oldest federal grant awards, why each has not been closed out

Federal Acquisition Regulation - FAR

- Describes the rules for **contracting** with the federal government.
- Federal government agencies—as well as government contractors that win a contract—are regulated by the FAR and must follow the procurement rules and policies set forth in the FAR.
- Is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds.

Federal Acquisition Regulation - FAR

- Became effective on April 1, 1984, and is issued within applicable laws under the joint authorities of the Administrator of General Services, the Secretary of Defense, and the Administrator for the National Aeronautics and Space Administration, under the broad policy guidelines of the Administrator, Office of Federal Procurement Policy, Office of Management and Budget.

Other – Submission Related

- **Certification Regarding Federal Tax Obligations**
- **Unpaid Federal Tax Liability**
- **Regarding Criminal Convictions**
- Regarding Conflict of Interest
- Drug-Free Workspace
- Debarment & Suspension
- Certification of Lobbying
- Certification Regarding Non-Discrimination
- Certification Regarding Flood Hazard Insurance
- Certification Regarding Organizational Support

Other – Award Related

- Sponsor General Terms & Conditions
- Sponsor Special Terms & Conditions
- Complete the Financial and Program Reports

Top Audit Findings (2015)*

- Procedures not documented or need improvement
- Accounting system inadequate or not effectively utilized to account for grant funds
- Special conditions not met by grantee
- Financial and programs reports not submitted timely or accurately prepared

Top Audit Findings (2015)*

- Suspension and Debarment – Verification not performed or not properly documented
- Sub-recipient monitoring not being conducted
- Matching fund not accurately Reported
- Program Interest income and related expenditure not recorded in accounting systems

*Office of the Chief Financial Officer

Reference

- <https://www.grants.gov/web/grants/learn-grants/grant-policies.html>
- <https://www.acquisition.gov/browsefar>

***For further questions and
individual assistance:***

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