Grants Allowability and Selected Items of Cost in Light of Recent Grant Reforms

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The OMB Uniform Guidance “Part 200”
Effective Dates:

- Dec 26, 2014
  - Direct Grants from Federal Awarding Agency
- July 1, 2015
  - State Administered Programs
- July 1, 2016
  - Procurement Rules – One Year Grace Period
The OMNI Circular: What is covered?

- A-87: Cost Principles – State and Local Govts
- A-21: Cost Principles – IHEs
- A-122: Cost Principals – Nonprofit Orgs
- A-133: Audit Rules
Who is covered?

• All “nonfederal entities” expending federal awards
The Major Changes in Federal Grants Management

1. Focus on Outcomes
2. Performance Metrics
3. Risk Assessments
5. Equipment Use
6. Micro Purchases
7. Corrective Action
8. Family Friendly Policies
9. False Claims Certifications
10. Audit Thresholds
Major Changes (cont.)

Part 200 has a MAJOR emphasis on strengthening accountability by improving policies that protect against waste, fraud and abuse.
New: Required certifications 200.415

• **NEW:** Official authorized to legally bind the non-federal entity **must certify on annual and final fiscal reports or vouchers requesting payment:**

  • “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete and accurate and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject me to criminal civil or administrative penalties for fraud, false statements, false claims, or otherwise.”
How to Determine if a Cost is Allowable
Practical Questions to Ask

✓ Is the proposed cost allowable under the relevant program?
✓ Is the proposed cost consistent with grant?
✓ Is the proposed cost consistent with federal cost principles?
Inconsistency Between Program Statute and Circular

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

- Federal award always governs.
New: Period of Performance 200.309

• May charge to the Federal award only allowable costs incurred during the period of performance.
  • Stated in grant award notice.

• Includes any costs prior to the award as permitted by the Federal awarding agency (similar to pre-award cost authority).
Pre-award Costs 200.458

• Pre-award costs are incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the award.

• Where necessary for efficient and timely performance, such costs are allowable ONLY to the extent they would have been if timely and ONLY with written approval of the Federal awarding agency.
Cost Principles: “Factors Affecting Allowability of Costs” 200.403

All Costs Must Be:

1. Necessary, Reasonable and Allocable
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. Net of applicable credits (moved to 200.406)
8. Adequately documented
Necessary and Reasonable

• Must be necessary for the performance or administration of the grant
• Must follow sound business practices:
  • Arms length bargaining (hint: procurement processes)
  • Follow federal, state and local laws
  • Follow terms of the grant award
• Fair market prices
• Act with prudence under the circumstances
• No significant deviation from established prices
Necessary & Reasonable (cont.)

- Practical aspects of “necessary”
  - Do I really need this?
  - Is this the minimum amount I need to spend to meet my need?

- Practical aspects of “reasonable”
  - Is the expense targeted to valid programmatic/administrative considerations?
  - Do I have the capacity to use what I am purchasing?
  - Did I pay a fair rate? Can I prove it?
  - If I were asked to defend this purchase, would I be comfortable?
Allocable 200.405

- A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.
  - Incurred specifically for the award
  - Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
  - Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.
- Can only charge in proportion to the value received by the program
  - Example: Agency purchases a computer to use 50% on the grant program and 50% on a state program – can only charge half the cost to the grant
Basic Guidelines

• Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

• Conform with federal law & grant terms
  • Example: Match Requirements
• Consistently treated
  • Cannot assign cost as direct cost if it's already allocated as an indirect cost
• In Accordance with GAAP
• Not Included as Match
  • see also 200.306
Basic Guidelines (cont.)

- Adequately documented
  - Amount of funds under grant
  - How the funds are used
  - Total cost of the project
  - Share of costs provided by other sources
  - Records that show compliance
  - Records that show performance
  - Other records to facilitate an effective audit

- Electronic copies ok
NEW: When original records are electronic and cannot be altered, there is no need to create and retain paper copies.

When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:

- Are subject to periodic quality control reviews;
- Provide reasonable safeguards against alteration; and
- Remain readable.
Applicable Credits 200.406

• Those receipts or reduction-of-expenditure type transaction that offset or reduce expense items – must be credited to the Federal award as either cost reduction or cash refund, as appropriate.
  • Examples: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments
New: Prior Written Approval 200.407

• In order to avoid subsequent disallowance:
  • Non-Federal entity may seek prior written approval of cognizant agency (for indirect cost rate) or Federal awarding agency in advance of the incurrence of special or unusual costs
Program Income 200.307

• Non-Federal entities are encouraged to earn income to defray program costs where appropriate.
  • Costs of generating program income may only be deducted if:
    • Authorized by federal regulations or the Federal award; Costs are incidental; and Costs are not charged to the Federal award.
    • Property from the sale of real property or equipment is not program income – apply post award property rules.

• NEW: Program Income Must Be Deducted from Total Allowable Costs
  • Exception: IHEs and Nonprofits – MUST Add program income to Federal Award
  • Exception: With prior approval may Add/Deduct to Federal Award.
Non-Federal may not earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award.
Salaries of administrative and clerical staff should be treated as “indirect” unless all of the following are met:

1. Such services are integral to the activity
2. Individuals can be specifically identified with the activity
3. Such costs are explicitly included in the budget
4. Costs not also recovered as indirect
Selected Items of Cost

The “Omni” now has 55 specific items of cost!

200.420
Selected Items of Cost Examples

- **Advertising/PR 200.421 (Clarified)**
  - Allowable for programmatic purposes including:
    - Recruitment
    - Procurement of goods
    - Disposal of materials
    - Program outreach
    - Public relations (in limited circumstances)

- **Alcohol 200.423**
  - Not allowable
• Conferences 200.432 (Changed)
  • Prior Rule: Generally allowable
  • Includes Meals / Conferences / Travel and Family Friendly Policies
  • Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
  • Costs related to identifying, but not providing, locally available dependent-care resources
    • But 200.474 “travel” allows costs for “above and beyond regular dependent care”
  • Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner than minimizes costs to federal award
Selected Items of Cost (cont)

• **Collections of Improper Payments (New)**
  
  • The costs incurred by the non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate.
Compensation – Personal Services “Standards for Documentation of Personnel Expenses” 200.430 (Changed)

Charges for salaries must be based on records that accurately reflect the work performed

1. Must be supported by a system of internal controls which provides reasonable assurance charged are accurate, allowable and properly allocated

2. Be incorporated into official records

3. Reasonably reflect total activity for which employee is compensated
   - Not to exceed 100%
Compensation – Personal Services “Standards for Documentation of Personnel Expenses” 200.430 (cont.)

4. Encompass all activities (federal and non-federal)
5. Comply with established accounting polices and practices
6. Support distribution among specific activities or cost objectives
Compensation – Personal Services “Standards for Documentation of Personnel Expenses” 200.430 (cont.)

- If records meet the standards: the non-federal entity will NOT be required to provide additional support or documentation for the work performed 200.430(i)(2)

- **BUT**, if “records” of grantee do not meet new standards, agency may require PARs 200.430(i)(8)
  - PARs are not defined!!
• Defense and Prosecution of Criminal and Civil Proceedings, Claims, Appeals and Patent Infringements 200.435 (Changed)
  • Prior Rule: Generally allowable (unless prosecuting claims against the govt.)
  • New government-wide rule (despite OIG protest)
  • Fees not allowed in audits if there is a liability;
    • Fees allowed when no liability found and if reasonable and necessary, and authorized federal official approves (up to 80%)
  • But attorney fees to U.S. Court of Appeals from final agency decision are not allowable
• **Entertainment Costs 200.438 (Clarified)**
  - Cost of entertainment are unallowable
    - Amusement, Diversion, Social Activities
  - Except where costs might otherwise be considered programmatic and are authorized or have prior written approval of the Federal awarding agency.

• **Fines, Penalties, Damages and other Settlements 200.441**
  - If related to violation, alleged violation or failure to comply with Federal, state, tribal, local or foreign law and regulations then unallowable.
  - Except with prior written approval of Federal awarding agency.
• **Maintenance of Repair Costs 200.452**
  - Provided it neither adds to the permanent value of the property nor appreciably prologs its intended life, but keeps it an efficient operating condition are allowable.
  - Includes utilities, insurance, security and necessary maintenance, janitorial services, repair or upkeep of buildings and equipment
• **Travel Costs 200.474 (Changed)**
  • Prior rule: allowable with certain restrictions
  • Travel costs may be charged on actual, per diem, or mileage basis
  • Travel charges must be consistent with entity’s written travel reimbursement policies
  • Grantee must retain documentation that participation of individual in conference is necessary for the project
  • Travel costs must be reasonable and consistent with written travel policy / or follow GSA 48 CFR 31.205-46(a)
1. NEW: Identification of Federal Awards
2. Financial Reporting
3. Accounting Records
4. Internal Control
5. Budget Control
6. NEW: Written Procedures to Implement CMIA
7. NEW: Written Procedures to Determine Allowability!

Source Documentation (moved to 200.333 and incorporated into Accounting Records)
The Federal award may be subject to statutory requirements that limit the allowability of costs.

When the limit is reached – any remaining amount not recoverable under the Federal award may not be charged to the federal award.
New: Collection of Unallowable Costs 200.410

• Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs.
• Must be refunded (including interest)
QUESTIONS?

• To ask a question, please press *1 on your touchtone phone.
• If you are using a speaker phone, please lift the receiver and then press *1.
• If you would like to withdraw your question, press *1.
Follow-Up Questions

If you have any remaining questions after the conclusion of today’s webinar please do not hesitate to get in touch.

Ask our content expert: mbarnes@columbiabooks.com

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