Risk Evaluation Under the Uniform Grant Guidance

The How and Where Processes and Expectations Changed
Thompson Information Services
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Agenda

I. Requirements for Risk-based Assessments
II. Government Risk Assessment Tools & Criteria Used for Evaluation
III. Special Award Conditions to Address Risk
IV. Managing Special Award Conditions
V. Pass-through Entities’ Responsibilities for Subaward Risk-based Evaluations
VI. Risk-Based Assessment Summary
Uniform Guidance:
I. Requirements for Risk-based Assessments
Uniform Grant Guidance Objective

To strengthen oversight of federal funds by reducing the risks of waste, fraud and abuse.
I. Risk Requirements--Two Levels

**Uniform Grant Guidance Risk Requirements**

**Federal**

Federal awarding agency review of risk posed by applicants (§ 200.205)
I. Risk Requirements—Two Levels

Uniform Grant Guidance Risk Requirements

Pass-through Entities
Pass-through entities required to evaluate subrecipient’s risk of noncompliance with Federal statutes, regulations and terms & conditions of subaward …(§ 200.331(b))
I. Risk Requirements: Federal

Preaward review for all awards requires federal agencies to use government-wide repositories to determine:

- Eligibility qualifications
- Financial integrity information
Agency preaward risk evaluation for competitive grants or cooperative agreements must have risk evaluation framework in place that:

- Identifies if risk review incorporates applicant evaluation results of eligibility and/or application quality

- Risk evaluation criteria must be in the funding announcement--transparent
I. Risk Requirements: Pass-through Entities

Pass-through entities can impose requirements on subrecipients in order to:

- Ensure federal award is used in accordance with federal statutes, regulations and terms and conditions of the award (§ 200.331(a)(2))
- Ensure pass-through entity can meet its own responsibility to the federal awarding agency (§ 200.331(a)(3))
I. Risk Requirements: For Both

Additional requirements that may be considered risk-based are:

- Conflict of Interest of Disclosures based on agency policies (§ 200.112)
- Mandatory Disclosures for criminal law violations, e.g., fraud, bribery, or gratuity violations (§ 200.113)

The above requirements must be addressed anytime during the life of the federal award, plus any debarment or suspension rules.
I. Risk Requirements

Uniform Grant Guidance Implies:

- Award performance can be influenced by risk factors internal and external to the recipient

- Management of risk factors can support recipient in meeting goals and objectives—increases ability to actively participate as a federal partner

- Federal agency knows when a particular priority or goal is high risk—supports recipient undertaking activity
Uniform Guidance: Government Risk Assessment Tools & Criteria Used for Evaluation
II. Government Risk Assessment Tools

Uniform guidance referenced tools

Agencies are to use OMB-designated governmentwide repositories:

- Federal Awardee Performance and Integrity Information System (FAPIIS)
- Dun and Bradstreet (D&B)
- “Do Not Pay” (Treasury)
- Suspension and debarment regulations
II. Criteria Used for Risk Evaluation

Agencies using risk-based evaluations, the following criteria may be considered: (§ 200.205)

- Applicant’s organizational financial stability
- Applicant’s quality of management systems and ability to meet guidance management standards
- Applicant’s performance history
- Applicant’s audit reports and findings
- Applicant’s ability to implement requirements
II. Criteria Used for Risk Evaluation

Applicant’s organizational financial stability

- Cash flow management—drawdown/payment activity
- Meet payroll obligations
- Debt—does it owe the federal government money (Do Not Pay)
- Ability to pay bills on time (payment history)
- Audit findings regarding financial system
II. Criteria Used for Risk Evaluation

**Applicant’s management systems**

- Financial system in place to report on use of federal funds;
- Time and Effort system in place to adequately record staff hours worked against award;
- Required policies/procedures and internal controls in place to ensure sound stewardship;
- Routinely has management reports produced to assess status of activity; performance;
II. Criteria Used for Risk Evaluation

Applicant’s Performance History

- Record of managing federal awards if federal recipient—# of awards, dollar value, agency
- Ability to submit required reports on time
- Successful completion and meeting terms and conditions of award
- Ability to perform similar type of work, if not current federal recipient; ability to undertake project management activities
II. Criteria Used for Risk Evaluation

Applicant’s Audit Reports and Findings

- Ability to provide required information for audits, when required
- Reports indicate inability to perform or manage federal award
- Audit findings are managed through identified corrective action plans
- Unallowable costs
II. Criteria Used for Risk Evaluation

Applicant’s Ability to Implement Requirements

- Can the applicant implement statutory requirements of the award?
- Can the applicant meet the performance requirements with its current resources?
- Does the applicant currently have the resources to undertake additional requirements?
- Does the organization have working relationships with other organizations?
II. Criteria Used for Risk Evaluation

Risk evaluations can:

- Include program specific criteria for performance
- Result in award based on inclusion of other factors, e.g., eligibility, merit review, need
- Identify special award conditions when level of risk is undertaken by the government
- Identify restrictions on federal awards, subawards and contracts with entities debarred, suspended, excluded or ineligible to participate in federal programs/activities
II. Criteria Used for Risk Evaluation

Risk evaluations can:

- Identify restrictions on federal awards, subawards and contracts with entities debarred, suspended, excluded or ineligible to participate in federal programs/activities (2 CFR Part 180)
III. Applied Special Award Conditions

Uniform Guidance requires special award conditions when a recipient has:

- Failed to comply with general or specific terms and conditions of an award
- Failed to meet performance requirements
- Failed to be responsible for managing an award

Note: Use of special award conditions also applies to pass-through entities for subawards.
III. Applied Special Award Conditions

Uniform Guidance references special conditions that may be applied in addition to specific ones identified by the federal agency or pass-through entity (§ 200.207)

- Payments made as reimbursements rather than advance payments
- Performance management; requiring approval to move to next phase of project/activity
- Financial reports requiring additional detailed financial reports
Uniform Guidance references special conditions that may be applied in addition to specific ones identified by the federal agency or pass-through entity (con’t.)

- Project monitoring; additional breakdown of activity
- Technical or management assistance in addition to recipient’s resources
- Prior approval requirement above those required in guidance
III. Applied Special Award Conditions

Uniform Guidance requires federal agency or pass-through entity to notify applicant of special award conditions by identifying:

- Nature of additional requirements
- Reason for imposition of additional requirements
- Action needed to remove additional requirement, if needed
- Timeframe allowed for completing action, if needed
- Method or how to request a reconsideration of the imposed additional requirements
III. Applied Special Award Conditions

Uniform Guidance requires federal agencies or pass-through entities to “promptly” remove special conditions as they are corrected.

Removal of special conditions may:

- Require award recipient to notify awarding agency with documentation.
- Require awarding agency to issue an amendment to the award removing the condition.
- Require all documentation associated with special award condition be maintained in official award file.
Using special award conditions to address applicant’s risk-based issues

- Requiring reimbursement, additional detailed financial report and phased work authorization (performance management) when proposed recipient may have
  - Large project for first time
  - Requires use of a number of supporting contracts and subawards; time sensitive deliverables
  - Previous financial management activities indicate lack of cash management control
  - Issue with unallowable costs
III. Applied Special Award Conditions

- Requiring additional project monitoring, technical/management assistance and/prior approvals when applicant or potential recipient has:
  - Limited staff resources to manage project that requires expertise in specific areas, staff lacks knowledge or would have to hire staff
  - First time large project; unable to meet previous performance requirements
  - Work may have situations that are outside of normal activity which require approvals or routinely did not follow rules
III. Applied Special Award Conditions

- Government may impose special conditions on a project that it considers high risk when:
  - Project is a new priority for a program—never done before
  - Time sensitive to meet specific goal or objective of agency or program
  - New funding available for specific purpose and limited time—need to show results on required reporting scheme (e.g., ARRA)
Federal Awarding Agencies and Award Recipients: Managing Risk-Based Award Conditions
IV. Managing Risk-Based Award Conditions

Special award conditions can impose additional management responsibilities to awarding agencies and award recipients

**Federal Agencies---Framework**

- By award
- By each special condition

Recipient notification provides reason for special conditions; requirement to meet condition; and timeline

Notification provides structure
IV. Managing Risk-Based Award Conditions

Federal Agencies

- Identify awards with specific conditions based on agency requirements
- Establish extra reports and timeline into monitoring plan for award
- Communicate with recipient on expected reports or information required
- Establish ability to confirm special condition requirement has been met and recommend removal—notify recipient
- Maintain documentation
IV. Managing Risk-Based Award Conditions

**Award recipients**

- Review award and identify any risk-based conditions
- Obtain notification of any applied conditions and review
- Acknowledge receipt of notification and ask questions, if any
- For each award, ensure official file contains all documentation
- Establish a reporting or management plan to meet requirements
IV. Managing Risk-Based Award Conditions

Award recipients

- Submit reports and information as required
- Inform awarding agency when you think you have met requirement and request a review
- Ensure requirement is removed, if required, from award and document file

Note: Not all special award conditions will be required to be removed
IV. Managing Risk-Based Award Conditions

**Award recipients**

- Expect more time to manage award when additional conditions are placed on the award; determine whether it is short-term or for duration of award
- Review any internal processes to accommodate the requirements and establish needed controls
- Determine if additional staffing resources are needed or re-alignment of responsibilities
Managing risk-based award conditions for both recipient and funding agency focuses on:

- Oversight and additional management activities
- Management by exception; important for organizations receiving a large number of awards and federal agencies making awards
  - Need to track awards with significant special conditions
  - Know remedies for applied conditions
  - Ensure conditions are cleared
Pass-Through Entities: Risk-Based Evaluation & Management Responsibilities
Uniform Guidance requires

- Pass-through entities evaluate subrecipient’s risk of noncompliance with federal statutes, regulations and terms and conditions of the subaward to determine monitoring activities (§ 200.331(b))
VI. Summary

Uniform guidance requires

- Risk evaluations by federal agencies and pass-through entities
- Publishing of evaluation criteria
- Placing special conditions on awards to address risks
- Notifying recipients of reasons for risk-based special conditions and removed when met
- Implementing additional reporting or management requirements to address risk-based issues
- Additional internal management/monitoring processes
VI. Summary

Uniform guidance has made

- Risk evaluations transparent
- All parties accountable to meeting requirements and ensuring performance
- Recipients address management issues and increases likelihood of sound business practices
- The risk of waste, fraud and abuse less likely to happen under federal awards
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 editor: karen.norris@thompson.com

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