Subrecipient Monitoring
Under the New Uniform Guidance

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AGENDA

• What is the uniform grant guidance?
• What is a pass-through entity?
• How do a pass-through entity’s responsibilities change under the uniform grant guidance?
  • GAN – Information requirements
  • Risk assessment
  • Enhanced monitoring/performance metrics
  • Enforcement
What is the Uniform Grant Guidance?
✓ **A-102**: Administrative Rules State and Local Govts
✓ **A-110**: Administrative Rules IHEs and Nonprofits
✓ **A-87**: Cost Principals – State and Local Govts
✓ **A-21**: Cost Principals – IHEs
✓ **A-122**: Cost Principals – Nonprofit Orgs
✓ **A-133**: Audit Rules
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
Most Significant Changes

- The uniform grant guidance has a **MAJOR** emphasis on “strengthening accountability” by improving policies that protect against waste, fraud and abuse.
• Shift from focus on *Compliance* to focus on PERFORMANCE!!!
  ▪ Auditors (A-133 + Federal OIG) and Monitors (Federal and State pass-through) must look more to “outcomes” than to “process”
Who crafted the changes?

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

- Feb 1, 2013: Notice of Proposed Rulemaking
- Dec 19, 2013: Final Rule Released
- Dec 26, 2013: Federal Register Published Rule
- May 22, 2014: New OMB Compliance Supplement
- June 26, 2014: Draft Agency Implementing Regulations Due
- Dec 19, 2014: Final Regulations Published
- April 2015: 2015 Compliance Supplement
If federal program statute or regulation differs from uniform grant guidance, then statute / regulation governs.
• Audit requirements will apply to audits of fiscal years beginning on or after December 26, 2014.

• Administrative requirements and cost principles will apply to new awards and to additional funding (e.g., depending on agency rules, funding increments) to existing awards made after Dec 26.
What is a pass-through entity?
Definitions

- **200.74, Pass-through entity** - non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

- **200.93, Subrecipient** - a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program.

- **200.23, Contractor** (replaces term “vendor” (used in A-133)) – means an entity that receives a contract.
How does a pass-through entity’s responsibilities change under the Uniform Grant Guidance?
Types of Grant Agreements

- 200.201, Pass-through entity must decide on the appropriate instrument for the Federal Award:
  - Grant agreement
  - Cooperative agreement
  - Contract
  - Fixed amount awards (New) (See 200.332 and 200.45)
    - Requires prior approval from Federal awarding agency
    - Payments are based on meeting specific requirements of the Federal Award
    - Accountability is based on performance and results
    - Award amount is negotiated using cost principles as a guide (Up to Simplified Acquisition Threshold (currently $150,000))
    - No governmental review of the actual costs incurred
    - Significant changes (i.e., principal investigator, project partner or scope) must receive prior awarding agency written approval
Determination of Nature of Funding 200.330

- A Pass-through entity must make a case-by-case determination whether each agreement casts the party as a subrecipient or contractor. Look at the nature of the relationship. It does not matter what the agreement is called.

<table>
<thead>
<tr>
<th>Subaward</th>
<th>Contract</th>
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<tbody>
<tr>
<td>Allowable activities based on applicable statute, local plan, State rules</td>
<td>Allowable activities based on terms and conditions of contract</td>
</tr>
<tr>
<td>Management rules</td>
<td>Management rules</td>
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<tr>
<td>- Applicable OMB Circular; and</td>
<td>- Terms of the contract; and</td>
</tr>
<tr>
<td>- State law/policies and procedures</td>
<td>- State contract law</td>
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Subaward vs. Contract

• Subrecipient 200.330(a)
  • Determines who is eligible to participate in a federal program
  • Has its performance measured against whether the objectives of the federal program are met
  • Is responsible for programmatic decision making
  • Is responsible for complying with federal program requirements
  • Uses the federal funds to carry out a program as compared to providing goods or services for a program
Subaward vs. Contract (cont.)

- Contractor 200.330(b)
  - Provides the goods and services within normal business operations
  - Provides similar goods or services to many different purchasers
  - Operates in a competitive environment
  - Provides goods or services that are ancillary to the operation of the federal program
  - Is not subject to compliance requirements of the federal program
• OMB/COFAR shifted many new responsibilities to the pass-through
GAN – New Information Requirements
Specific Requirements for Pass-Through Entities (200.331(a))

• Ensure that every subaward contains the following information relating to federal award identification:
  1. Subrecipient name (must match registered name in DUNS)
  2. Subrecipient unique entity identifier
  3. Federal Award Identification Number (FAIN)
  4. Federal Award Date
Specific Requirements for Pass-Through Entities (200.331(a)) (cont.)

5. Period of performance state 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
9. Federal award project description for FFATA purposes
10. Name of federal awarding agency, pass-through entity, and contact official
11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
12. Is the award for “research and development”
13. The indirect cost rate
The pass-through must reference the requirements of the federal grant and any additional requirements imposed by the pass-through (e.g., identification of any required financial and performance reports).

(incorporated by reference)
• An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government.

• Appropriate terms and conditions concerning closeout of the subaward.
Pass-through must seek an assurance from subgrantees that access will be provided to records and financial statements.
New Risk Management Requirements for Pass-Through Entities
Pass-through must evaluate each subrecipient’s risk of non compliance (federal statute/regulations/terms of award) for purpose of monitoring. (200.331(b)).

Timing: before applicant receives funding ??
(200.331(b))

- Risk Factors, may include consideration of:
  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
Specific Conditions 200.331(b) and 200.207

Pass-through must consider imposing additional federal award conditions, if appropriate, such as:

- Require reimbursement;
- Withhold funds until evidence of acceptable performance;
- More detailed reporting;
- Additional monitoring;
- Require grantee to obtain technical or management assistance; or
- Establish additional prior approvals.
New Enhanced Monitoring/Performance Metrics
(200.331(d)) – Monitoring

• Pass-through must monitor its subrecipients to assure compliance and performance goals are achieved
Monitoring must include:

1. Review financial and programmatic reports
2. Ensure corrective action
3. Issue a “management decision” on audit findings
Non-construction performance reports: pass-through must submit “performance reports” at least annually, using “OMB-approved government-wide standard information collections”
The performance reports must include:

1. Comparing actual accomplishments to the objectives established by the federal award
   a. Where the accomplishments of the federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful
   b. If performance trend data is useful, federal awarding agency should include this as a performance reporting requirement.
2. The reasons why established goals were not met, if appropriate

3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs

4. Significant developments, problems, delays, adverse conditions

5. Favorable developments
Recommendations for Monitoring Tools (200.331(e))

- Depending on assessment of risk, the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
  1. Training + technical assistance on program-related matters
  2. On-site reviews
  3. Arranging for “agreed-upon-procedures” engagements (described in 200.425 Audit Services)
Audit Resolution (200.331(e))

- Pass-through must verify all required subrecipients have single audits.
- Audit threshold raised from $500K (A-133 circular) to $750K (uniform grant guidance) – Places greater burden on pass-through
Additional Monitoring???

Uniform grant guidance NPRM (February 1, 2013) proposed reduction in number of types of compliance requirements in the compliance supplement.

Many pass-throughs opposed this reduction because of burden on them.
200.331(g)

• Pass-through must adjust its own financial records based on audits monitoring, on-site reviews
Enforcement
(new for IHEs, Hospitals and Non-Profits)
200.331(h)

- Pass-throughs must consider taking enforcement action based on noncompliance
  - Temporarily withhold cash payments pending correction
  - Disallow all or part of the cost
  - Wholly or partly suspend the award
  - Recommend to federal awarding agency suspension/debarment
  - Withhold further federal awards
  - 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)
Oversight responsibility for subrecipient monitoring is tied very closely to internal controls that nonfederal entities, including pass-through entities, are required to have in place. This includes having:

- well-trained and knowledgeable staff members;
- sufficient resources (financial and staffing) dedicated to subrecipient monitoring;
- oversight managers with knowledge to identify the most appropriate methods/tools and extent of monitoring to be used (§ 200.331(e)(1));
- indicators to help identify risks from outside factors that may affect a subrecipient’s performance (those related to economic conditions, political changes, regulatory changes or unreliable information) (§ 200.331(b));
- official written policies and procedures (e.g., methodology for resolving findings of noncompliance or internal control weaknesses) (§§ 200.303; 200.331(e));
• Follow-up processes to ensure timely appropriate actions are taken or completed on a subrecipient’s reported deficiencies (§ 200.331(d)(2)); and
• Reviews of the subrecipient’s financial and programmatic reports (§ 200.331(d)(1)).
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.
If you have any remaining questions after the conclusion of today’s webinar please do not hesitate to get in touch.

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