

The Uniform Guidance – Some Ongoing Pitfalls

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We find ourselves years into the implementation of Title 2 Code of Federal Regulations (CFR) 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). However, a few recurring matters continue to arise that lead to audit findings.

This article will discuss the following areas where we still see findings:

- Subrecipient monitoring
- Equipment
- Period of performance

Subrecipient Monitoring

Three areas where we see challenges on subrecipient monitoring are:

Vendor versus subrecipient analysis

In many instances, this line can be blurred depending on facts and circumstances. Depending on the final determination, different compliance requirements apply to vendors and subrecipients. CFR §200.331 considerations should be clearly documented for each entity engaged. Documentation of this analysis and the final determination should be retained by the organization.

Pre-award assessment

CFR 200.332(b), Requirements for pass-through entities, state that an entity evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward. The pre-award assessment is designed to determine what level of monitoring is required once the subaward is granted as well as determining risk level to the granting organization. Decisions made here determine if the subrecipient is awarded funds in advance or on a cost reimbursement basis, how often program and financial reports are required, or how many site visits or other monitoring actions are required. A granting organization

cannot use a blanket pre-award assessment based on the expected amount of grant funding. To be clear, a \$20,000 subaward will not receive the same significant level of assessment as a \$1 million subaward. For example, grants to subrecipients of less than \$20,000 cannot all be labeled as "low risk" just because of a dollar threshold. Risk assessments need to consider such factors as whether:

- Work is being completed in a high-risk location
- First time working as a subgrantee for the organization
- Strong financial controls (and how assessed)

These decisions are all based on the pre-award assessment and certainly it is not a one-size-fits all analysis.

Monitoring

Just as the word implies, the purpose is to monitor subrecipients but entities must also determine if monitoring is uncovering issues (audit findings, lack of financial wherewithal, programmatic departures, etc.). Entities who make subawards need to ensure their monitoring process also ensures subrecipients are addressing and correcting issues identified. Oftentimes, as auditors, we see a file full of single audit reports or financial reports submitted by subrecipients, but nothing has been documented as to the review of these documents. Pass-through entities need to review these items to determine:

- What was done by subrecipients — were audit findings corrected?
- Were the financial reports with missing receipts or approvals addressed?

Especially in this COVID environment where in-person monitoring site visits have been rare, the threat of issues is especially high, so take a moment to revisit how you are monitoring from afar and considering reports, calls, and other factors that just don't "feel right."

Equipment

Equipment requirements were one of the Uniform Guidance areas where there was little change from prior requirements. However, CFR §200.313, Equipment continues to be a challenge for many organizations. A few points or a “check the box” if you will:

- Property records must be maintained. These should include description, serial number, and source of funding for each piece of equipment purchased with federal funds.
- An inventory and reconciliation of each piece of equipment is required, at a minimum, every two years. The Office of Management and Budget (OMB) did not issue any waivers for this requirement even during COVID. Advance approval would have had to be obtained from the federal awarding agency regarding the inability to perform physical inventory counts as required.
- Property is to be kept in suitable working order and maintenance performed. For entities working in remote and/or difficult operating environments, repair/operating costs should be adequately budgeted.
- And finally doing away with a “myth” that some organizations have in regard to equipment compliance testing. We get this question many times a year: If your current year federal expenditures do not include “material” equipment purchases in the current period under audit, the auditor doesn’t need to test, right? That is false. If you continue to hold property purchased with federal funds, and it has not yet been disposed, the auditor is still required to test various provisions such as 1) inventory is performed at least biannually; and 2) any disposals, if material, have been disposed in accordance with §200.31 – *Equipment e) Disposition*.

Period of Performance

An area we have seen regulators focusing on is the use of funds pre-award and costs incurred post award (often referred to as trailing or project closure costs). What is most likely the shortest compliance requirement in the OMB Compliance Supplement (it is literally one paragraph) is often one of the most difficult for organizations to comply with: how to fit all the costs into the actual grant agreement term, more commonly referred to as the “period of performance.” It takes significant coordination between all facets of an

organization, the program team, the subgrant team, and the administrative team to ensure all costs are incurred, including subgrantee costs, and reported correctly. Regulators have continued to raise points of emphasis and findings when identifying costs that occurred after the grant agreement term ends. Yes, they may provide no-cost extensions (see §200.308) for final report submissions. But the regulators have been clear, this does not allow for additional costs to be incurred, contrary to what was for many years seemingly a readily accepted industry practice.

In addition, the recent revisions to the Uniform Guidance have updated the definition of “period of performance” to be “the total estimated time interval between the start of an initial federal award and the planned end date, which may include one or more funded portions, or budget periods.” This change is effective for all contracts entered into after Nov. 30, 2020. Entities should stay tuned to see if OMB updates the period of performance audit objectives/procedures in the 2021 OMB Compliance Supplement.

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