Tying the Uniform Grant Guidance to Practical Contracting Practices

August 10, 2017
Florida Grants Consortium Workshop
Objectives

- Creating value for your organization in the application of revised internal control guidance
- Application of pre- and post-federal award requirements for sub-recipient monitoring and procurement
- Review significant changes to cost principles related to personnel services.
- Identification of purchasing risks
- Developing monitoring evidence from various sources
- How to assess the internal control environment
Next Steps - #1 - *from October 2015*

Learn what new regulations and changes from the current regulations will impact your agency

- Time reporting
- Audit requirements
- Procurement documentation
- Risk assessments
- Written policies
Identify strategies to help your agency address new requirements and other areas of risk (i.e., develop a work plan)

- Adopt an internal control and compliance monitoring program to address procurement and other matters
- Assess the impact of increased audit threshold on agency subrecipients
- Utilize automated financial system controls and monitor procurement transactions/contracts
- Modify policies and procedures to address revised procurement requirements
Evaluate your agency’s risks for challenges and issues currently observed in audits of procurement activities

- Missing cost and price analysis or other procurement records to support reasonableness of costs
- Stringing of procurements
- Lack of evidence for suspension and debarment checks
- Missing or incomplete monitoring of procurement controls
Next Steps - #4 - from October 2015

Consider conducting a review of your agency’s contracts administration and/or project management functions to identify:

- Efficiencies between performance and contract management and reporting
- Procedural changes required in advance of next audit
- Instances in which training may be needed internally and/or with subrecipients and vendors
- Opportunities to implement project management best practices to enhance the likelihood of success for Federal and state projects
Next Steps - #5 - *from October 2015*

Watch for guidance from your funding sources and for training opportunities to share with other Florida agencies and with your staff

Potential topics

- Indirect costs
- Program income
- Negotiating profit
- Specialized instructions for schools and universities
Agenda

- Internal control guidance
- Monitoring and procurement
- Personnel services
- Purchasing risks
- Monitoring evidence
- Assessing the int. cntrl. environment
- Open Forum – Q&A
Related goals of OMB guidance reforms

1. Focus on performance accountability over compliance
2. Provide for consistent and transparent treatment of costs
3. Limit allowable costs to make best use of federal resources
4. New (better) administrative processes that reduce burden on entities and set standard business processes/definitions
5. Strengthen oversight
6. Target audit efforts on waste, fraud and abuse
§ 200.303 Internal Controls

- Non-Federal entities must establish and maintain effective internal control that provides reasonable assurance that entity is managing Federal award in compliance with Federal statutes, regulations, and terms and conditions of Federal award.

- Internal controls should be in compliance with: - COSO (Internal Control Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission), or - Green Book (Standards for Internal Control in the Federal Government, issued by the Comptroller General of the United States)
§ 200.303 Internal controls

• Each non-federal entity must
  – Establish/maintain effective control over awards
  – Evaluate and monitor compliance with statutes, regulations and terms of awards
  – Take prompt action when instances are identified including noncompliance identified in audit findings
  – Take reasonable measures to safeguard protected PII as defined under 200.82
Green Book Components and Principles

**Components**

- Control Environment
- Risk Assessment
- Control Activities
- Information and Communication
- Monitoring

**Principles**

1. Demonstrate Commitment to Integrity and Ethical Values
2. Exercise Oversight Responsibility
3. Establish Structure, Responsibility, and Authority
4. Demonstrate Commitment to Competence
5. Enforce Accountability
6. Define Objectives and Risk Tolerances
7. Identify, Analyze, and Respond to Risk
8. Assess Fraud Risk
9. Analyze and Respond to Change
10. Design Control Activities
11. Design Activities for the Information System
12. Implement Control Activities
13. Use Quality Information
14. Communicate Internally
15. Communicate Externally
16. Perform Monitoring Activities
17. Remediate Deficiencies
An effective internal control system requires that each of the five components are:

- Effectively designed, implemented, and operating
- Operating together in an integrated manner
- A component is not effective if related principles are not effective
How do you know?

**Common attributes:**
- Tone at the Top
- Established Standards of Conduct (SOC)
- Evaluation of adherence to SOC

Management is responsible for maintaining evidential matter, including documentation, to provide reasonable support for its assessment

Document significant judgments, how such decisions were considered, and how the final decisions were reached
§ 200.205 New framework for risk
Awarding agency review of risk posed by applicants

- Risk factors may include
  - Financial stability
  - Quality of management systems
  - History of performance
  - Reports and findings from audits
  - Ability to effectively implement requirements
Subpart D – Post Award Requirements

§ 200.301 Performance Measurement

- Relate financial data to performance accomplishments
- Provide cost information to demonstrate effective practices
- Awarding agency to provide clear performance goals, indicators and milestones
§ 200.318 Procurement Standards

(i) Maintain records with rationale for the method of procurement, selection of contract type, contractor selection and basis for price
Subpart D – Post Award Requirements

§ 200.328 Monitoring and reporting program performance

(d) Non-federal entity must inform Federal awarding agency or pass-through entity as soon as the following types of conditions become known

– Problems, delays or adverse conditions which will materially impair the ability to meet the object of Federal award

– Favorable developments that reduce time or costs
§ 200.331 Requirements for pass-through entities

– Oversight and monitoring requirements

The pass-through entity must

• Put specific information in each subaward
• Consider operating factors for each subaward to complete a risk assessment to determine appropriate level of subrecipient monitoring
  – Risk of noncompliance
  – Subrecipient’s prior experience with the award
  – Results of previous audits or federal monitoring
  – Whether the sub has new personnel or systems
Subpart D – Post Award Requirements

§ 200.331 the pass-through entity must

- Verify subrecipients have audits as needed*
  - *Reminder - this is not the only monitoring task
- Consider actions required to address any instances of subrecipient noncompliance
- Follow-up to ensure subrecipient takes appropriate action on all deficiencies related to the subaward identified through audits, onsite review or other monitoring tasks
- Issue a management decision for audit findings related to subaward(s) made by the pass-through entity
• How does the pass-through entity structure their procurement documents to appropriately assess risk?
• How does the pass-through entity establish a linkage between payment and performance?
• How are actual costs documented so effectiveness can be supported?
• How does the pass-through entity document the procurement history for subawards?
• How does the pass-through entity ensure all information required to be communicated to a subrecipient has been communicated?
• How does the pass-through entity ensure that costs incurred by a subrecipient are for allowable items?
• What procedures does the pass-through entity perform to validate information reported by subrecipients?
• How does the pass-through entity document monitoring (programmatic and financial) conducted over a subrecipient?
• Is a tracking system in place to ensure all subrecipients have submitted required reports?
• Have procedures been established to sanction subrecipients who fail to comply with reporting requirements?
§ 200.413 Direct Costs

(a) Direct costs are those that can be easily and accurately assigned to a specific award.

(c) Salaries of administrative and clerical staff should normally be treated as indirect. Direct charge only if all of the following are met:

- Integral to the project
- Specifically identified with the project
- Explicitly included in the budget or have prior written approval and
- Not recovered as indirect
Subpart E – Cost Principles

§ 200.414 Indirect Costs

(f) Any non-federal entity that has never negotiated an indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely.
§ 200.430 Compensation - personal services

• If federal funds are used for salaries, then time distribution records are required
• How staff demonstrate allocability
  – If an employee is paid with federal funds, then documentation must show that the employee worked on that specific federal program objective
Subpart E – Cost Principles

§ 200.430 Compensation - personal services

Who must participate?

- **All** employees paid with federal funds
- **Some** employees paid with non-federal funds
  - When salaries are used for match purposes
- **NOT** contractors

Source: OMB slides / Brustein & Manasevit, June 2014
Subpart E – Cost Principles

§ 200.430 Compensation - personal services

A-122: Personnel Activity Reports (PARs)

- After-the-fact records
- Accounts for the total activity for which employee is compensated
- Completed at least monthly
- Signed by the employee or supervisor with knowledge of employee’s activities
- Must coincide with one or more pay periods
Subpart E – Cost Principles

§ 200.430 Compensation - personal services

“Standards for documentation of Personnel expenses”

• Records accurately reflect work performed

1. Supported by a system of internal controls that assures charges are accurate, allowable and properly allocated

2. Part of official records of entity

3. Reflect total activity for which employee is compensated
   - Not to exceed 100%
§ 200.430 Compensation - personal services

“Standards for documentation of Personnel expenses”
- (cont’d)

- Records accurately reflect work performed (cont’d)

4. Encompass all activities (federal and non-federal)

5. Comply with established accounting policies and practices

6. Support distribution to two or more activities or cost objectives
Subpart E – Cost Principles

§ 200.430 Compensation - personal services

“Standards for documentation of Personnel expenses”
- (cont’d)

• Budget estimates alone do not qualify as support for charges to federal awards (200.430(i)(1)(viii))
• Percentages may be used for distribution of total activities (200.430(i)(1)(ix))
• Salaries and wages of employees used for in-kind must meet same requirements
§ 200.430 Compensation - personal services

“Standards for documentation of Personnel expenses” - (cont’d)

• 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))
§ 200.430 Compensation - personal services

(b) Must be reasonable – consistent with that paid for similar work, or comparable to that paid for similar work in the community

(d) Allowable compensation for certain employees is subject to a ceiling in accordance with statute

(f) Incentive pay for cost reduction, efficient performance, suggestion awards, etc. are allowable if agreement is in place before the work is performed
Subpart E – Cost Principles

§ 200.430 Compensation - personal services

“While many non-Federal entities may still find that existing procedures in place such as personnel activity reports and similar documentation are the best method for them to meet the internal control requirements, this final guidance does not specifically require them.

The focus in this final guidance on overall internal controls mitigates the risk that a non-Federal entity or their auditor will focus solely on prescribed procedures such as reports, certifications, or certification time periods which alone may be ineffective in assuring full accountability.”

from Comments to the Regulations
Subpart E – Cost Principles

§ 200.431 Compensation – fringe benefits

(a) Allowable if reasonable and required by law or entity policy

(e)(3) Actual claims paid to or on behalf of employees or former employees for workers’ compensation, unemployment compensation, severance pay and similar employee benefits (e.g., post-retirement health benefits), are allowable in the year of payment provided that the entity follows a consistent costing policy and they are allocated as indirect costs

Cost Principles - Application

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work. They must:

- Be incorporated into official records of non-Federal entity
- Be supported by a system of internal control which provides reasonable assurance that charges are accurate, allowable, and properly documented
- Comply with established accounting policies of non-Federal entity
- Encompass both federally assisted and all other activities
- Support distribution of employee’s salary or wages among activities or cost objectives
- Reasonably reflect the total activity for which employee is compensated
Cost Principles - Application

Budget estimates alone do not qualify as support, but may be used for interim charges provided that:

- System for establishing the estimate produces reasonable approximations of the activity actually performed
- Significant changes in corresponding work activity are identified and entered into records on a timely basis
- Short term (such as one or two months) fluctuations between workload categories need not be considered as long as distribution reasonable over long term
- Entity’s system of internal controls include process to review after-the-fact interim charges based on budget
Purchasing Risks

• High-risk area subject to fraud and abuse

• One of the major sources of cash distribution for any organization
  • Typical risks include collusion and favoritism, including kickbacks from vendors/contractors

• Highly automated systems can have technical risks that must be considered (information security, work arounds, age of system)

• Purchasing agent/contract manager independence

• Lack of competition; lack of strong purchasing practices
Purchasing Risks

• Incorrect purchase order information
  • Item, quantities, other information may be incorrectly recorded on the input document

• Unauthorized purchases
  • Employees purchasing without delegated authority

• Purchasing systems may be defrauded or abused
  • Ordering personal items or other non-business related items

• Unauthorized adjustments to purchasing records
  • Change orders, documentation of received goods and services; supervisory approvals; etc.

• Accounting and procurement records not current
Purchasing Risks

• Inadequate segregation of duties between purchasing, receiving, and accounts payable
• Duplicate payments for purchases
• Unauthorized goods and services accepted
• Purchasing functions not efficient, effective or economical
• Purchasing audit trail may not be sufficient to reconstruct the processing
• Purchasing function not meeting needs of the organization
• Purchasing activity not supervised adequately to ensure propriety
• Controls should be at the purchase order or contract level; system evidence does not ensure there are not unrecorded purchases/liabilities

• Look for evidence at the lowest level and follow that to the accounting records
Common Purchasing Evidence

• Purchase Orders
• Contracts
• Purchasing/Contracting Manual/Guidelines
• Vendor Lists
• Procurement/Contract File
• Original Solicitations (RFQ, RFP, ITN)
• Deliverables/Invoicing
• Monitoring/Audits
Internal Control Assessment

• What are the key controls that eliminate risks or reduce them to acceptable levels?
  • Pre-numbered purchase orders/contracts
  • Multi-level purchasing approvals
  • Centralized receiving (typical for commodities, not services)
  • Matching receipts to orders
  • Operationalized policies and procedures
  • Performance standards (process and outcome measures)
  • Closure practices
Monitoring or Audit Tests -

• To substantiate that controls are in place and effective (compliance testing)
• To probe the magnitude of potential control weaknesses (substantive testing)
• To evaluate the overall effectiveness of the purchasing function
Audit Tests - Examples

• Sort payment by vendor and amounts to look for duplicate payments

• Review a sample of deliverables for quality

• Sorted vendor lists can be reviewed for competitive pricing and service quality

• Document purchasing activities to ensure segregation of duties compliance with policies

• Accounting records can be examined for correct entries
Audit Tests – Payment Specific Examples

• Are purchases properly authorized and received prior to payment?
• Are purchasing authority levels being complied with?
• For automated payments, is management authority involved?
• Does the reconciliation process identify any inaccuracies?
• Are payments disbursed by someone other than the individual who authorized payment?
• Are payment complaints handled by someone independent of those making payments?
Audit Tests – Purchasing Specific Examples

• Is the purchasing function organizationally independent of other divisions?

• Is the purchasing office operationally involved in strategic buying decisions (especially volume buying a specification modifications)?

• Are there specific procedures/authorizations required for capital expenditures?

• Are approvals needed if changes are made in the quantity or specifications of the original purchase requisition?
Audit Tests – Purchasing Specific Examples

• Are there reasonable procedures to identify possible sources of products/services?

• How does the purchasing function address vendor complaints and customer complaints?

• Are purchasing actions processed on a timely basis?

• Are there special procedures for emergency purchases?

• What in process measures are used by the purchasing function to ensure effective and efficient purchasing?
Contractual Services – Sample Findings

• Staffing Concerns
• Travel Justification/Documentation
• Necessity of Purchasing
• State and Federal Tax Law Requirements
• Financial Management
• Subcontracting Practices
US Foods To Pay Florida $15.5M For Inflated Prices

August 21, 2015 -- US Foods Inc. will pay the state of Florida $15.5 million to settle allegations that it inflated its prices to the state Department of Corrections for supply food services, according to a recent announcement from the Florida Department of Financial Services.

The Illinois-based food supply giant wrongly collected millions of dollars from the state through deceitful billing practice, according to the announcement dated Aug. 19.
Open Forum - Q&A
Contact

Walter Sachs
Northwest Regional Managing Director
Florida Department of Children and Families
W: (850) 778-4050 C: (850) 228-9713
walter.sachs@myflfamilies.com