



Goals for the Session

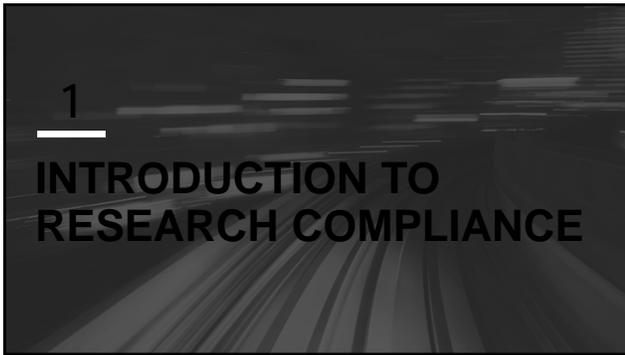
- Introduce those (fairly) new to sponsored research compliance to key concepts
- Cover the basics of the Uniform Guidance, the cost principles and how these regulations shape sponsored research administration
- Discuss how these, and other, regulations drive requirements for grant funded activity and affect your day-to-day responsibilities

HURON 2

Agenda

1. Introduction to Research Compliance
2. Key Concepts
3. Financial Challenges
4. Emphasis on Internal Control
5. Compliance: Your Institutional Approach

HURON 3



Introduction to Research Compliance

PERSPECTIVE ON THE CURRENT INDUSTRY LANDSCAPE

Internal Concerns and Challenges

- Expectations for research growth;
- Increase in complexity of research fiscal management;
- Reduction of resources to fund research and operations.

External Concerns and Challenges

- Federal and non-federal funding for sponsored research has decreased in real terms.
- Increase in federal reporting and transparency requirements;
- Stream of federal fraud cases in the university research;
- Increase in proactive compliance site visits.

Regulatory Trends

- Significant increase in penalty recoveries from federal investigations and audits.
- Increasing emphasis on accountability.

HURON 5

Introduction to Research Compliance

DHHS OIG WORKPLAN ELEMENTS

- Work planning is a process used by OIG to meet priorities and respond to emerging issues with resources available.

DHHS Focus Areas	2013	2014	2015	2016	2017
Review of Data Controls to Ensure the privacy and Protection of Volunteers in the Precision Medicine Initiative (New)					x
Controls over Subcontracting of NIH Grant and Contract Work				x	x
Superfund Financial Activities for FY2015 (Mandatory Review)	x	x	x	x	x
Review of Environmental Health Sciences' Funding for Bisphenol A Safety Research				x	x
Colleges' and Universities Compliance with Cost Principles	x	x	x	x	x
Use of Appropriated Funds for Contracting		x	x	x	
Oversight of Grants Management Policy Implementation	x	x	x		
Extramural Construction Grants at NIG Grantees	x	x	x		
Integrity of Recovery Act Expenditures		x			
Enforcement of whistleblower protections		x			

HURON 6

Introduction to Research Compliance
CONSEQUENCES OF NON-COMPLIANCE

- Operational
 - Exceptional status of awards;
 - Suspension/termination of award;
 - Special terms and conditions of award;
 - Reduced flexibility in the management of federally provided resources;
 - Significant difficulty negotiating F&A rates;
 - Extrapolation to additional grants.
- Negative publicity;
- Financial
 - Audit findings;
 - Disallowance of costs;
 - Large financial settlements;

HURONI 7

Introduction to Research Compliance
GREATEST RISK AREAS

- Time & Effort Reporting (Payroll Verification)
- Cost Transfers
- Award Closeouts

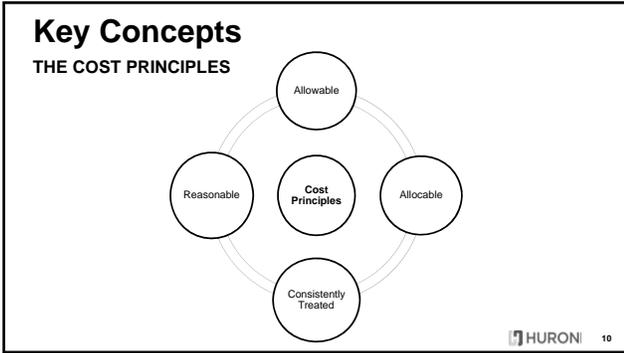
We will explore the challenges and risks associated with these areas in more detail...

But FIRST – the basics.

HURONI 8

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**KEY CONCEPTS
(THE BASICS)**

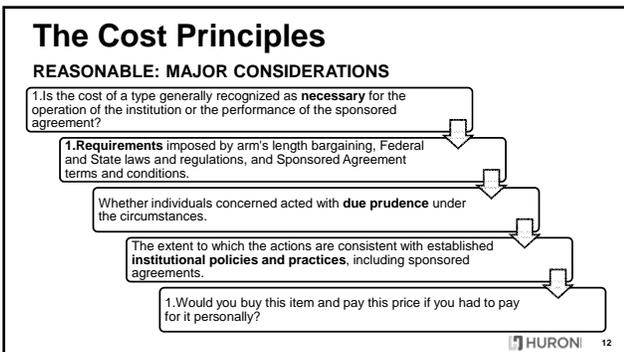


The Cost Principles

REASONABLE

A large, hollow arrow points to the right. Inside the arrow, the following text is written: "A cost is reasonable if, in its **nature** and **amount**, it does not exceed that which would be incurred by a **prudent person** under the circumstances prevailing at the time the decision was made to incur the cost."

HURON 11



The Cost Principles

REASONABLE

Major Challenges

- Late Fees associated with a bill paid late for an allowable charge to a sponsored project due to departmental inefficiency
- Charging valet parking \$22/day when daily parking is available at \$14/day
- Architectural fees for building plans on a site that proved to be cost inefficient (included in an F&A Proposal)

HURONI 13

The Cost Principles

ALLOWABLE

A cost is allowable if it **conforms to any limitations** or regulations set forth in the regulations that govern the award (OASC-3, Uniform Guidance, institution or system policies, etc.) or in the sponsored award

HURONI 14

The Cost Principles

ALLOWABLE: MAJOR CONSIDERATIONS

1. Are there any **award terms and conditions** or **sponsor regulations** prohibiting this charge?

1. Do any **institutional policies** prohibit or limit this charge?

Was the cost incurred during the **Project Period**?

HURONI 15

The Cost Principles

ALLOWABLE

Major Challenges

- Lack of understanding/awareness of sponsor terms and conditions

- Workplace conflict of interest: Individuals with authority insisting a charge should be applied when it should not

HURON 16

The Cost Principles

ALLOCABLE

A cost is allocable if the **goods or services involved are chargeable or assignable to such cost objectives** in accordance with relative benefits received AND/OR incurred for the benefit of only one project or can be readily assigned to multiple projects which benefit from the cost

HURON 17

The Cost Principles

ALLOCABLE: MAJOR CONSIDERATIONS

1. Is the cost incurred solely to advance the work under a single sponsored award?
If a cost benefits two or more projects or activities in proportions that can be easily determined, the cost should be allocated to the projects based on the proportional benefit.
 If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated to benefited projects on any reasonable basis.

1. Does the cost benefit both the sponsored award and other work of the institution?

Is the cost necessary to the overall operation of the institution?

Costs allocable to a project may not be shifted to another project to eliminate deficits or for other reasons of convenience.

HURON 18

The Cost Principles

ALLOCABLE

Major Challenges

- Lack of a policy or insufficient policy

- Insufficient or no training

- Lack of central system or processes to detect and monitor charges which involve cost allocation transactions

Lack of proper documentation for allocation decision and methodology

Determination of a "Reasonable Basis" for allocation

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The Cost Principles

CONSISTENTLY TREATED

A cost is treated consistently if **the costs incurred for the same purpose**, in like circumstances, are either **direct costs only or F&A costs only with respect to final cost objectives**. This assures that **the same types of costs are not charged to awards both** as direct costs AND as indirect costs.

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The Cost Principles

CONSISTENTLY TREATED: MAJOR CONSIDERATIONS

1. Have you verified "unlike circumstances"?

1. Have you thoroughly documented/demonstrated an "unlike circumstance"?

- The mere existence of a Center does not constitute an unlike circumstance.

Have you charged ALL benefitting projects in proportion to benefit?

- Charging some projects while not charging all benefitting projects is not a reasonable allocation approach and demonstrates the cost is charged for convenience

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The Cost Principles

CONSISTENTLY TREATED

Major Challenges

- "Indirect types" of costs are the most at risk: Clerical and Administrative Costs, Office Supplies, Local Phone Charges, Memberships, Postage
- Each of these cost categories is included in the Departmental Administration component of the F&A Rates (generally in large amounts)
- Economic factors may affect doing the right thing
- In all but exceptional circumstances, these costs benefit multiple activities, and thus meet the definition of an indirect cost

The Cost Principles

CONSISTENTLY TREATED

Spotlight on the Uniform Guidance

Consistent guidance has been issued that allows for administrative costs to be treated as direct costs when they meet certain conditions to demonstrate that they are directly allocable to a Federal award.

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FINANCIAL CHALLENGES

Time and Effort Reporting

FINANCIAL CHALLENGES

Effort: Proportion of time spent on any activity, expressed as a % of the total compensated activity for which an individual is employed by the institution.

- Be a reasonable estimate of time spent on activities
- Total effort = 100%
- Effort is not based on a 40 hour week

Challenges: PI/Faculty

- **Lack of understanding** of effort reporting
- Lack of effective **training**
- Appointment/Salary documentation **lack clarity**
- Deprioritized effort reports (**unsigned/not timely**)
- Salary from >5 awards OR 100% charged
- Salary cost transfers after effort certified
- Salary > DHHS Salary Cap

Challenges: Research Administrators

- Insufficient or outdated **policies and procedures**
- Lack of **ownership** of the process/system
- Insufficient **training and education** programs
- Paper-based processes that are **burdensome to monitor**

Time and Effort Reporting

REGULATIONS

Uniform Guidance:

- "Effort Reporting" still required (not dead)
- Additional flexibility: **Institutions can determine the means and frequency of their process**

Other Regulations/Guidance

- NIH Policy Statement
- OIG Audit Reports
 - <http://oig.hhs.gov/reports-and-publications/oas/nih.asp>
 - <http://www.nsf.gov/oig/auditpubs.isp>

AUDITS & FINDINGS

- **\$13 Million Settlement (in 2018!)**
- University of North Texas Health Science Center
- Self-discloser from January 2011 through February 2016
- Due to effort reporting errors:
 - UNTHSC received payments for inaccurately and untimely time and effort certifications
 - UNTHSC received federal reimbursement when salary payments did not match the accompanying time and effort reports

Cost Transfers

FINANCIAL CHALLENGES

A **Cost Transfer** is an after-the-fact reallocation of the cost associated with a transaction from one project (account) to another

Challenges: Institution-wide

- **Policies and Documentation:** Inadequate or outdated
- Lack of **training**
- Limited **monitoring**
- **Excessive** transfers and transfers of transfers
- Transfers impacting **previously certified effort**
- **Non-compliant transfers:**
 - Near/After project end
 - Solely to remove deficit from another project
 - Appearance of utilizing unspent funds

Cost Transfers

REGULATIONS

NIH Grants Policy Statement:

- **“Corrections** of clerical or bookkeeping errors should be accomplished **within 90 days of discovery of the error.**”
- **“Transfers must be supported by documentation** that fully explains how the error occurred, and a certification of the correctness of the new charge by a responsible organizational official of the grantee.”

AUDITS & FINDINGS

- **\$500,000 settlement**
 - 266,000 transactions on NSF award funds over a 3-yr period reviewed
- **Lack of documentation** was primary reason that cost transfers were disallowed
- Commonly cited Cost Transfer violations by DHHS OIG:
 - *Lack of “effective controls and accountability for ...”*
 - *“Adequate safeguards to assure that assets are used for authorized purposes” not present*
 - *Insufficient “accounting records that are supported by source documentation”*

Closeouts

FINANCIAL CHALLENGES

- The Department and PI cease using the project/account number
- Transactions are no longer approved by units outside of the department
- The financial system blocks expenditures from posting to the project
- TOTAL EXPENDITURES = TOTAL BUDGET = TOTAL CASH

Challenges: Institution-wide

- **Unallowable expenditures posted** that should have been removed
- **Debits or credits posted** that were **not captured on the financial report** or final invoice
- **Loss of carry forward funds**
- **Continued posting** of expenditures after funding is de-obligated
- **Variance between** final report and financial system

Closeouts

REGULATIONS

Uniform Guidance:

- **Submit all sponsor required reports and liquidate** all obligations within **90 calendar days**
- **Refund any balances** of unobligated cash that was paid by the sponsor
- **Disclose** information on **any property acquired** with funds or received from the sponsoring agency

AUDITS & FINDINGS

- **Audit resulted in new NIH Sub-Accounting Procedures**
- OIG audited DHHS’s closeout procedures, specifically funds allocated within the Payment Management System:
 - *88% of DHHA grants are closed out late (on the federal side)*
 - *Billions of unspent dollars remained allocated to closed awards*
- Federal agencies had to tighten their monitoring and controls



Emphasis on Internal Controls

THE DEFINITION

Uniform Guidance requires grant recipients maintain internal controls.
 The Internal Controls section was moved from the audit guidance section to the administrative section to emphasize controls early in the process.

Systematic measures (such as reviews, checks and balances, methods and procedures) instituted by an organization in order to:	Conduct its business in an orderly and efficient manner
	Safeguard its assets and resources
	Deter and detect errors, fraud, and theft
	Ensure accuracy and completeness of its accounting data
	Produce reliable and timely financial and management information
	Ensure adherence to its policies and plans

HURON 32

Emphasis on Internal Controls

THE BEST PRACTICES

The Uniform Guidance states that internal controls should be in line with guidance in:

- "Standards for Internal Control in the Federal Government" [i.e., **the Green Book**], issued by the Comptroller General of the United States;
- "**Internal Control Integrated Framework**", issued by the Committee of Sponsoring Organizations (COSO);
- **OMB Compliance Supplement, Part 6.**

These documents contain best practices... BUT:

- It is not required to document or evaluate internal controls prescriptively in accordance with these documents.
- It is not required to audit or reconcile technical differences.
- Non-federal entities and their auditors should exercise judgment in determining the most appropriate and cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with Federal program requirements.

HURON 33

Internal Controls

MONITORING COMPLIANCE

-  Evaluate internal policies and procedures to ensure the right level of internal controls are integrated.
-  Evaluate the OIG Compliance Supplement for new changes and reforms.
-  Consider developing a data-base to monitor compliance:
 - Analyze sponsor project financial data, cost allocations can point to control breakdowns;
 - Dashboards and reports.

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COMPLIANCE:
YOUR INSTITUTIONAL
APPROACH

**Compliance:
Your Institutional Approach**

KEY ELEMENTS OF EFFECTIVE COMPLIANCE PROGRAMS

Elements of Effective Compliance	1. Compliance Leadership	<hr/>
	2. Policies and Procedures	<hr/>
	3. Training	<hr/>
	4. Communication	<hr/>
	5. Monitoring	<hr/>
	6. Enforcement	<hr/>
	7. Corrective Response	<hr/>
	8. Roles and Responsibilities	<hr/>

Some strategies to mitigate risk based on these elements are discussed further...

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Compliance: Your Institutional Approach

KEY ELEMENTS OF EFFECTIVE COMPLIANCE PROGRAMS

Compliance Leadership <ul style="list-style-type: none"> Must have a Compliance Officer Committee to oversee compliance 	Policies & Procedures <ul style="list-style-type: none"> Documented Up-to-Date Publicized to community Consistent with practice 	Training <ul style="list-style-type: none"> Relevant and tailored content Periodically offered via multiple mediums 	Communication <ul style="list-style-type: none"> Working groups and discussion Focus on policy changes, new developments
Monitoring <ul style="list-style-type: none"> Leverage systems and reports Use internal audits Don't assume everything is OK! 	Enforcement <ul style="list-style-type: none"> Mandate policies and procedures Have follow-up actions for non-compliance 	Corrective Action <ul style="list-style-type: none"> Action plans to mitigate further non-compliance Additional trainings 	Roles & Responsibilities <ul style="list-style-type: none"> Clear division of responsibilities including oversight

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Compliance: Your Institutional Approach

RISK MITIGATION STRATEGIES

Effort Reporting <ul style="list-style-type: none"> Review faculty salary if: <ul style="list-style-type: none"> > 95% charged to award Charged to > 5 projects > salary cap Monitor uncertified effort reports Do not allow cost transfers to federal projects after certification has been done 	Cost Transfers <ul style="list-style-type: none"> Minimizing # of late cost transfers Cautious of transfers: <ul style="list-style-type: none"> B/w federal projects At end of a project Utilizing unspent funds or moving deficits Linked to previous transfer Check transfers for: <ul style="list-style-type: none"> Timeliness PI approval Documentation 	Award Closeout <ul style="list-style-type: none"> Establish an internal closeout procedure Provide training Send 60-, 90- day notification letters Submit timely financial reports and invoices Track terminated projects and awards Utilize 'Hold' or 'Freeze' account status
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Compliance: Your Institutional Approach

PROACTIVE MANAGEMENT AND MONITORING

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graph LR
    Identify[Identify] --> Collect[Collect]
    Collect --> Compare[Compare]
    Compare --> Implement[Implement]
  
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Identify

- Identify top-priority areas to analyze;
- Organize the benchmark assessment.

Collect

- Which data?
- Infrastructure needs.

Compare

- Dashboards;
- Analytics/reports.

Implement

- Identify and prioritize opportunities
- Continuous improvement.

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