Uniform Guidance Compliance: A 101 Course
June 9, 2019

Agenda

1. (Brief) Background and Introduction of the Uniform Guidance
   - Background and Purpose
2. Critical changes and approaches for implementation:
   - Cost Principles
   - Effort Reporting
   - Procurement
   - Subrecipient Monitoring
3. Internal controls: Institutional responsibility for ensuring compliance
Background and Introduction

THE PROBLEM TO BE ADDRESSED

To match the growth in federally sponsored funding over the past 50 years, the Office of Management and Budget (OMB) issued numerous circulars to provide governance in helping to manage federally sponsored awards.

- Many dated back to 1984 (or earlier!)
- Lacked proper guidance on technological advancement and other changes in the sponsored award environment
- Not consistently followed by federal awarding agencies

Overall, the previous OMB Circulars lacked clarity and contained:
- Duplicative Language
- Contradictory Requirements
- Confusing Requirements
- Different Language Used to Describe the Same Issues

In order to address the issues with the multiple OMB Circulars, the federal government sought to create a unified, consistent source of grants management regulations.
Background and Introduction

GOVERNMENTAL ACTION

- President Obama began the effort to improve these regulations with Executive Orders dating back to 2009
- The OMB established the Council on Financial Assistance Reform (COFAR) in October 2011 as a governance body to provide policy level leadership for the Federal grants community

GOAL
- “Reduce administrative burdens and risk of waste, fraud and abuse”

PROCESS
- Broad and consultative with stakeholders (as mandated by Executive Order)

DRAFT
- Published proposed guidance in February 2013 for comments

FEEDBACK
- Received over 350 comments from a broad range of constituencies

**Uniform Guidance:** Critical Changes and Implementation Approach
Critical Changes and Implementation Approach

COST PRINCIPLES

The Uniform Guidance (and previous Circulars) establish principles for determining costs applicable to Federal grants, contracts, and other agreements.

– OASC-3 remains the federal guidance applicable to Hospitals

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tr>
<td>Reasonable</td>
<td>Goods or services acquired and amount involved reflect an action a prudent</td>
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<td>person would have taken.</td>
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<tr>
<td>Allocable</td>
<td>Benefits the project or award that was charged.</td>
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<tr>
<td>Allowable</td>
<td>Items not restricted by federal regulations or the specific grant/contract.</td>
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<tr>
<td>Treated Consistently</td>
<td>Like costs in similar circumstances need to be charged directly or indirectly at the institution.</td>
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Cost Principles

UNIFORM GUIDANCE IMPACT – ADMINISTRATIVE SALARIES

Administrative and clerical support salaries can be charged directly to a sponsored project as an allowable cost

Pre-Uniform Guidance

• Salaries for administrative and clerical support staff were treated as indirect costs on sponsored projects, unless they were specifically designated as a component of a “major project” or unlike circumstances prevailed

Uniform Guidance Changes

• If these costs are allocable, they can be directly charged, requiring no project designation
• Prior approval must be obtained by the federal award agency or listed in the proposed budget
• Burden for justifying direct costs as allocable to an award remains with the institution

Overall Impact

• Institutions can (still!) directly charge these costs to a federal award when it is appropriate and allocable.
• This may better serve investigators, as their sponsored awards will likely benefit from the added skills and support of administrative and clerical staff

UNCHANGED: Costs that do not meet these standards should not be charged to a sponsored project.
Cost Principles
UNIFORM GUIDANCE IMPACT – ADMINISTRATIVE SALARIES

Implementation Considerations:

• **CLARIFICATION:** The Research Terms and Conditions still apply to the requirement for prior approval.

• For active awards currently classified as major projects and accumulating charges for clerical and administrative salaries, institutions **may** need to request prior written approval from the Federal awarding agency to continue charging those costs to new incremental funds.

• Institutions should evaluate the terms and conditions of active Federal awards and/or consult with the relevant awarding officials of active Federal awards to determine if and when pre-approval has been granted.

Cost Principles
UNIFORM GUIDANCE IMPACT – COMPUTING DEVICES

Computing devices can be directly charged to an award as supplies, if this cost is allowable and allocable to the specific project

**Pre-Uniform Guidance**
- Computers and other similar devices were not allowable as a direct cost on an award, unless they were essential to the project and pre-approved in the budget

**Uniform Guidance Changes**
- Computing devices that are essential and allocable, but not solely dedicated to the performance of the award, are allowable as a direct cost without the awards agency’s approval
- An institution may now classify and treat these items as they would supplies rather than capital equipment

**Overall Impact**
- Institutions are no longer required to obtain special permission in order to charge computing devices directly to a sponsored project (as equipment)
- However, institutions must follow the same practices for determining and documenting allocability of these costs when charging computing devices to sponsored awards
Cost Principles
MONITORING COMPLIANCE: ALLOCATION METHODOLOGIES

- Develop monitoring techniques to focus on high risk areas (target specific Expenditure/Account Codes)
  - Consider central pre-review of certain costs based on dollar amount/Expenditure Type
- Train investigators, local administrators and your central staff on the concept of Allocation Methodologies
- Develop processes to determine and document Allocation Methodologies in advance of purchases on multiple awards
- Develop audit processes to review Allocation methodologies for reasonableness

Critical Changes and Implementation Approach
TIME AND EFFORT REPORTING

Effort is the proportion of time spent on any activity and expressed as a percentage of the total professional activity for which an individual is employed by the institution.

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

In a grant proposal, we offer effort
At award time, we make a commitment of effort
Throughout the project, we dedicate effort and charge salary to the sponsor

Periodically, sponsors want to know:
- Have we devoted enough effort to justify the salary charges?
- Even in cases where we are not charging salary to the sponsor, have we fulfilled our commitments?
Time and Effort Reporting
UNIFORM GUIDANCE IMPACT

Language from A-87, A-21 and A-122 are consolidated, merged and clarified into a single set of guidelines relevant to “Effort Reporting.”

Why the “quotes”?

• No specific requirements for activity reports or personnel action forms
• No specific rules regarding effort reporting frequency
• No guidance on who may document (certify?) compensation costs
• Appropriate internal controls to verify that payroll is properly allocated and charged are required
• Estimates with a “degree of tolerance” are appropriate

Time and Effort Reporting
UNIFORM GUIDANCE IMPACT

Charges to Federal awards must be based on records that accurately reflect the work performed. Records must:

• Be supported by a system of internal controls that provides reasonable assurance about the accuracy, allowability, and proper allocation of the charges
• Be incorporated into the entity’s official records
• Reasonably reflect the total activity for which the employee is compensated by the entity, not exceeding 100% of compensated activities, or Institutional Base Salary
• Encompass both Federally assisted and all other activities compensated by the institution on an integrated basis, i.e. reflect 100% of the employee’s activities
• Comply with the entity’s established accounting policies and practices
• Support the distribution of the employee’s salary and wages among specific activities or cost objectives if the employee works on multiple activities
Time and Effort Reporting
UNIFORM GUIDANCE IMPACT

The Uniform Guidance introduces a few new reforms and concepts...
How these will translate to the audit landscape has yet to be seen.

Pre-Uniform Guidance
- Salary follows an appointment
- Salary must accurately reflect the work performed
- Cost sharing or matching must be supported in the same manner as direct charges
- "Reasonable" applies

Clarifies Common Practices
- Guidance for non-institutional activities is clarified
- Definition of institutional base salary is clarified
- Extra service payments and other appointment issues are clarified
- Non-exempt personnel records must capture hours worked each day

Provides Flexibility
- Documentation specifics removed!
- "Certification" and "First hand knowledge" references removed
- Effort reporting frequency is not prescribed

Time and Effort Reporting
GOVERNMENTAL ACTION

Implementation Considerations:

- The new guidance also encourages cognizant agencies to consider and approve alternatives to traditional effort reporting, such as milestone- or performance-based approaches for compensation.
  - These alternatives must be approved by the cognizant agency in advance
- Changes to payroll certification processes can be implemented as institutions begin compliance with the new Uniform Guidance.
- Changes to current processes can be incremental or more significant, including the complete elimination of current institutional effort reporting systems, as long as the new processes (in place of effort reporting) meet the requirements of the Uniform Guidance.

A wait and see approach....
**Time and Effort Reporting**

**MONITORING COMPLIANCE**

- Review current effort reporting practices with an eye to streamline practices
- Do not discontinue current practices without extensive review – we do not know yet what auditors will do to test internal controls
  - Odds are – if your “old” Effort Reporting practices are sound, they will pass auditor standards under the Uniform Guidance
- Shore-up any weaknesses in your internal processes
  - Monitoring effort reporting backlogs to determine if you are “current”
  - Test certified effort against payroll to ensure they are in sync
- Critically examine audit reports now that the Uniform Guidance has gone into effect to identify additional opportunities to streamline your process and maintain adequate internal controls

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**Critical Changes and Implementation Approach**

**PROCUREMENT**

**General Procurement Requirements:**
- Maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase order
- Not required to maintain a contract administration system
- How the non-Federal entity maintains oversight is a matter of judgment

**Procurement “Bear Claw”?**
- Stepwise procurement method requirements outlined in the Uniform Guidance

*Cited from Frequently Asked Questions for the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*
Procurement UNIFORM GUIDANCE IMPACT

The Uniform Guidance is more prescriptive on standards for an organization’s procurement processes, requiring:

- Documented policies
- Necessity of items procured on federal projects
- Full and open competition
- Mitigation and management processes for Conflict of Interest
- Minimum documentation
  - Cost and price analysis
  - Vendor selection

Procurement UNIFORM GUIDANCE IMPACT

With the implementation of the UG, organizations with federally sponsored projects must adjust their policies related to the threshold for small purchases.

Pre-Uniform Guidance

- Organizations could make decisions on appropriate procurement methods as long as minimum assurances were in place

Uniform Guidance Impact

- Organizations must request rate quotations for purchases in the $3K - $150K range

Overall Impact

- Will this limit/eliminate some of the efficiencies gained with P-card use?
- How will rate quotations be documented if P-cards or other local procurement processes are used?
- How do Uniform Guidance requirements impact state requirements for public institutions?
Procurement MONITORING COMPLIANCE

- Educate central procurement staff, as well as research administration staff and investigators, on the new federal procurement requirements.
- Review and update organizational policies and procedures to allow for federal compliance:
  - Will different procedures be implemented for non-federal procurement actions?
- Determine organizational documentation requirements to demonstrate compliance with procurement requirements.
- Develop internal audit processes to verify you are in compliance with new federal requirements – and can demonstrate it!

Critical Changes and Implementation Approach SUBRECIPIENT MONITORING

The updated guidance allows for increased flexibility, it is important to note that there is also a greater emphasis on internal controls to ensure compliance:
- Subrecipient and contractor determinations (200.330)
- Requirements for pass-through entities to issue, monitor and manage subawards (200.331)

Substance of the Relationship ➞ Form of the Agreement

Each agreement may have a varying set of criteria.... Consider the make-up of each one, but establish a consistent, organizational mindset in line with federal requirements.
Subrecipient Monitoring
UNIFORM GUIDANCE IMPACT

The Uniform Guidance specifically outlines the elements required to be included in any subaward agreement, which must be clearly identified as such by the pass-through entity.

The pass-through entity must:

- Include specific information in the subaward agreement, including indirect cost rate
- Conduct a risk assessment to determine appropriate subrecipient monitoring AND must monitor subrecipients
- Consider if specific subaward conditions are needed
- Verify subrecipients have audits in accordance with Subpart F
- Make any necessary adjustment to the pass-through entity’s records based on reviews and audits of subrecipients
- Consider actions to address subrecipient noncompliance

Subrecipient Monitoring
UNIFORM GUIDANCE IMPACT

Subrecipient Monitoring and Management requirements are applicable to all Federal Awards and provide for additional specific guidance.

Pre-Uniform Guidance
- Institutions could issue subawards in different and varying templates
- Institutions were responsible for monitoring subs to ensure that Federal awards are in compliance

Uniform Guidance Impact
- Monitoring responsibilities for pass-through entities are limited to subaward agreements between the pass-through entity and the subrecipient
- Clarifies information to consider risk evaluations

Key Issues
- Institutions will be held accountable for demonstrating risk evaluations
- Institutions are held accountable (with increased scrutiny) for monitoring the activities of subrecipient and applying sanctions as needed
### Subrecipient Monitoring

**MONITORING COMPLIANCE**

- Developing tools, such as a decision tree or matrix, to inform and guide staff in their classification decision making and to document determinations.

- Review and update organizational policies and procedures to allow for federal compliance:
  - Do your policies address all the responsibilities of pass-through entities?

- Develop and enhance monitoring procedures and tools, communication templates and sample monitoring plans, to ensure proper accountability and compliance of subs.

- Coordinate with your PIs to promote proper achievement of performance goals, such as requiring PI signature on all subrecipient invoices, to validate technical progress is in line with spending trends.

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### Uniform Guidance: Emphasis on Internal 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

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
### Internal Controls

**MONITORING COMPLIANCE**

| ✓ | Evaluate internal policies and procedures to ensure the right level of internal controls are integrated |
| ✓ | Evaluate internal policies and procedures to ensure the right level of internal controls are integrated |
| ✓ | Consider developing a data-base to monitor compliance  
  • Analyze sponsor project financial data, cost allocations can point to control breakdowns  
  • Dashboards and reports |

Questions?
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