The Importance of Documentation

• DOT OIG ARRA Audit (2014)
  • Federal Transit Administration (FTA) oversight of its ARRA grantees did not prevent or detect approximately $7.3 million in improper payments to 10 of the 16 grantees in our sample. Approximately $5.9 million, or 80 percent, was paid for charges that grantees did not sufficiently document.

  “While a lack of documentation does not necessarily mean a payment was invalid, it raises questions about the payment’s eligibility as well as the overall effectiveness of internal controls.”

Agenda

• OMB UGG COVID-19 Flexibility
• Documentation Requirements
• Previous Findings
• Lessons Learned

Learning Objectives

1. The flexibilities permitted from the Office of Management and Budget related to COVID-19;
2. How to ensure charges to federal grants are allowable and meet related documentation requirements and flexibility; and
3. Be provided recommendations for documentation and internal controls based on prior disaster relief audits that can reduce the risk of fraud, waste and abuse of current federal funds.
OMB UGG COVID
Flexibility

On average, a Panda feeds for approximately 12 hours per day. This is the same as an adult at home under quarantine, which is why we call it a “Pandemic”
March 19, 2020 (OMB Memo M-20-17)

• Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations
  • Short term relief for the requirements under 2 CFR Part 200 without compromising accountability requirements. (per authority under 200.102 exceptions)
  • Applies to All Federal Granting Agencies!
  • Expired June 19, 2020 (valid 90 days)
OMB COVID-19 Guidance

1. SAM registration
2. Application deadline flexibility
3. Waiver of Notice of Funding Opportunities
4. No-cost extensions
5. Abbreviated non-competitive continuation
6. Salary and benefits allowability
   • Extended through September 30, 2020
7. Cancellation fees allowability
8. Waivers from prior approval
9. Procurement exemptions
10. Reporting extensions
11. Indirect cost rate extensions
12. Closeout extensions
13. Single audit extension
   • Extended through December 31, 2020
OMB COVID-19 Guidance (cont.)

1. SAM registration (200.205)
   • SAM registration relaxed to expedite funding, registrations expiring by May 16th were extended for 60 days.
   • Federal awarding agency review of risk still applies.

2. Application deadline flexibility (200.202)
   • Flexibility re: competitive ad unsolicited applications.

3. Waiver of Notice of Funding Opportunities (200.203)
   • For noncompetitive and cooperative agreements, emergency NOFOs can be published for less than 30 days.

4. No-cost extensions (200.308)
   • Awarding agencies may extend award up to addition 12 months automatically.

5. Abbreviated non-competitive continuation (200.308)
   • For continuation requests from April 1, 2020 – Dec. 31, 2020, awarding agencies may accept a brief statement from recipients to verify they can (1) resume/restore their project activities; and (2) accept the award.
6. Allowability of salaries and other project activities (200.403; 200.404; 200.405)

• May continue to charge salaries and benefits to current active Federal awards consistent with recipients policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources (Federal and non-Federal)

• Appropriate records and cost documentation must be maintained (200.302; 200.333) to substantiate costs.
7. Allowability of Costs not Normally Chargeable to Awards (200.403 -.405)

- Recipients are permitted to charge costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant funded activities, due to the public health emergency.
- May charge the full cost of cancellation .
- Does not mean additional funds may be available in the future to eventually carry over the event or travel.
- Recipients must maintain appropriate cost documentation (200.302; 200.333)
- Awarding agencies may list additional guidance on specific cost allowability on website or provide agency program contact.
8. Waivers from prior approval (200.407)
   • Prior approval requirements may be waived as necessary to effectively address response.

9. Procurement exemptions
   • Requirements re: geographical preferences (200.319(b)); and small and minority businesses, women’s business enterprises, and labor surplus area firms (200.321) are waived.

10. Reporting extensions (200.327; 200.328)
    • Delayed submission of financial, performance and other reports up to 3 months are permitted. Will not delay draw-down of funds.
11. Indirect cost rate extensions (200.414(c))
   - Grantees may continue to use the currently approved indirect cost rate, for up to one additional year w/o submission of a proposal.
   - Extension also applies to indirect cost rate proposals.

12. Closeout extensions (200.343)
   - Closeout reports may be delayed up to one year after the award expires, provided proper notice is given.

13. Single audit extension (200.512)
   - Audits, not yet filed with the Federal Audit Clearinghouse, should be permitted to delay submission for 6 months.
   - No further action is required to enact this extension.
   - Maintain documentation of the reason for the delay – approval not required.
Polling Question 1

The OMB flexibilities in M-20-17 are still in effect:

a. True
b. False
c. Only some remain in effect.
June 18, 2020 (OMB Memo M-20-26)

Extension of Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations

- Extended two flexibilities
- Applies to All Federal Granting Agencies!
6. Allowability of salaries and other project activities (200.403; 200.404; 200.405) - Extended through September 30, 2020

- May continue to charge salaries and benefits ... consistent with recipients policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources
  - Awarding agencies may evaluate grantee’s ability to resume activity and appropriateness of future funding (as normally done)
- Payroll costs paid with Paycheck Protection Program (PPP) loans or other CARES Act funds may not also be charged to current Federal awards as it would be double payment.
6. Allowability of salaries and other project activities (200.403; 200.404; 200.405)
- Extended through September 30, 2020 (cont.)

- Due to limited funding, awarding agencies MUST inform recipients to exhaust other available funding sources to sustain its workforce and implement necessary steps to save overall operational costs (such as rent negotiations) during this pandemic period in order to preserve Federal funds for the ramp-up effect.
  - Recipients should retain documentation of their efforts to exhaust other funding sources and reduce overall operational costs.
13. Single Audit Extension (200.512)

• Audits not filed by March 19, 2020: Federal awarding agencies may delay audits with normal due dates from March 30, 2020 through June 30, 2020 up to 6 months.

• Audits with normal due dates from July 31, 2020 through September 30, 2020 will have a 3 month extension – to December 31, 2020.
  • No further action by Federal awarding agency is required to enact this extension.
  • No specific approval is required.
  • Documentation of the reason for the delayed filing must be maintained.

• Schedule of Expenditures of Federal Awards (SEFA) Requirement:
  o Recipients and subrecipients must separately identify the COVID-19 Emergency Acts expenditures on the SEFA and audit report findings.
What’s Next?

FEAR OF CORONA IS ON THE DECLINE

RELEASE THE MURDER HORNETS
Ensuring Allowability of COVID Costs 200.403

• To be allowable, a cost must:
   Be necessary, reasonable and allocable
   Comply with the cost principles and federal award
   Be consistent with policies and procedures applying uniformly to federal and nonfederal activities and costs
   Be adequately documented*

• *Not complete list under 200.403
Amended Allowability Documentation

1. **Rule: Ensure Costs are Allowable 200.403**
   - Generally unallowable: Fines, penalties, etc. (200.441); Losses on contracts 200.451
   **Correction: Document, Document, Document**
   - OMB Flexibility and supporting documents (cancellations, contract fees, etc.)

2. **Rule: Prior Written Approval 200.407**
   - Revision of budgets and program plans (200.308)
   **Correction: After-the-fact Approval / Amendments**
   - Amend budgets to align with spending and submit for approval
   - Amend grant applications, plans, etc. with adjustments made during COVID.
Amended Allowability Documentation

3. Rule: Contract Oversight 200.318(b)
   • Maintain oversight to ensure contractors perform in accordance with the terms of contracts. 200.318(b)
   • Invoices match agreements.
   
   **Correction:** Amend contracts with 3rd party providers, as needed.
   ▪ Update/amend contracts to reflect changes in scope, etc. Do not pay invoices unless aligned with contract or amendments, approved changes, etc.

4. Rule: Methods of Procurement 200.320
   ▪ Noncompetitive procurement only permitted if emergency that will not permit a delay resulting from competitive procurement
   
   **Correction:** Document immediate need.
Updated Policies and Procedures

- Policies and procedures
  - “the grantee or subgrantee may amend or create a policy in order to put emergency contingencies in place....” – ED’s Fact Sheet, April 8, 2020
  - Examples of potentially affected policies/procedures:
    - Allowability Procedures - 200.302(b)(7)
    - Managing Equipment – 200.313(d)
    - Travel Policy - 200.474(b)
    - Time and Effort Procedures - may be required, depending on the agency. Example: “essential” ED Cost Allocation Guide
    - Subrecipient Monitoring Procedures – required by Compliance Supplement
    - Record Retention Procedures
Tracking Time and Effort During COVID

Time and Effort: 2 CFR 200.430(i)

Look at:

• Policies and procedures
  • New forms? (no longer set-schedule?)
  • Edited updates?

• Allocability:
  • Actual effort
  • Allocate using prior, representative period
Personnel Documentation 200.430(i)(1)

**Time and effort records must accurately reflect the work performed and:**

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and properly allocated;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
   - Not to exceed 100%
4. Encompass all activities (federal and non-federal);
5. Comply with established accounting polices and practices; and
6. Support distribution among specific activities or cost objectives.
Polling Question 2

The key to demonstrating the allowability of funds during the pandemic includes:

a. Compliance with the UGG, no exceptions unless OMB approved.

b. Documentation of necessary and reasonable expenditures, including pictures and video documentation of costs.

c. Strong internal controls and documentation showing costs are necessary, reasonable and allocable and aligned with policies and procedures, even emergency procedures.

d. All costs are allowable if they were made during the pandemic.
Case Study: Recent ED Disaster Relief Audit Findings
And Lessons Learned the Hard Way
OIG Specialized Work: Coronavirus Relief Oversight & Disaster Recovery Oversight

• “[OIG] has been charged with ensuring coronavirus relief and disaster recovery funds are used as required and reach the intended recipients, and with investigating misuse, theft, and other criminal activity involving these funds.”
  • https://www2.ed.gov/about/offices/list/oig/disasterrecovery.html
Texas Emergency Impact Aid for Displaced Students Audit (March 2020)

- Reviewed 3 LEAs (out of 247 that received awards, totaling $174.2 million)
- Finding 1: Incorrect displaced student count data resulted in unsupported payments
  - Questioned: $10.55 million (90% confidence)
  - Review other LEA displaced student data counts
Texas Emergency Impact Aid for Displaced Students Audit (March 2020)

• Finding 2: Unallowable costs: (1) LEAs did not separately account for and use Impact Aid funds for displaced students with disabilities; (2) LEAs did not ensure salaries costs were only for employees in schools with displaced students.
  • Questioned costs: $1.94 million related to costs for general education, instead of special education and related services
    • Award notifications did not separately identify funds
    • Subrecipient monitoring revised to test the issue
  • Questioned costs: $750,888 in unsupported teacher salaries (no displaced students reported)
Lessons Learned

• Documentation and verified data is important!
  • Time and effort documentation
  • Alternative documentation / procedures?
  • Accounting for CARES funds as federal awards with separate cost objectives
Texas Emergency Impact Aid for Displaced Students Audit (March 2020)

• Other Matters: Cash management.
  • Four LEAs returned unspent program funds
  • OIG asked for imputed interest, less $500 which may be retained
Texas Administration of Restart Program (Feb 2020)

• Reviewed 3 of 164 LEAs that received funds
  • April 30, 2018 – ED awards $89.4m to Texas; 24 months to spend
  • May 18, 2018 – Texas posts allocations and applications for LEAS and nonpubs
  • Texas allocated to 164 LEAs, and 63 nonpublic schools (through 5 ESCs)
  • Oct 16, 2019 – Texas drawn 87% of its award

• Finding 1: TEA controls over Restart funds were appropriate and sufficient
  • Tested payroll and nonpayroll expenditures at 3 LEAs and 1 ESC, and “found only limited instances of noncompliance”
Texas Administration of Restart Program (Feb 2020)

• Finding 2: Those “limited instances of noncompliance”
• Houston: Authorized extra duty pay of 1 hour per day to make up for lost instructional time due to hurricane school closures
  • Reviewed 31 employees’ compensation; questioned costs totaling $34k
    • For one teacher, disallowed extra duty pay for work before the hurricane occurred
    • For 4 teachers, disallowed extra duty pay for activities unrelated to Hurricane Harvey
    • For 4 teachers, disallowed extra duty pay after end-date of the authorization period (Dec. 21, 2017 – last school day in 2017)
Texas Administration of Restart Program (Feb 2020)

• ESC Region 4
  • Reviewed Nonpublic schools’ use of Restart Funds – questioned $84k
    “The Region 4 ESC used Restart program funds to reimburse two nonpublic schools for prior purchases of materials (such as books, bookcases, and wood lockers), totaling $84,243, but it did not obtain or maintain control and ownership of the purchased materials.”
  • Recommendation: Verify transfer of titles for materials and equipment in ESC; Inventory / asset tags in ESC’s name; or return funds to the grant
Lessons Learned

• Timelines are Important! (*Emergency* relief; for existing grants)
• Don’t forget the purpose of the federal awards: (e.g. CARES Funds: “to prevent, prepare for, and respond to coronavirus”
  • Backfilling?
• Pay attention to eligible recipients/beneficiaries: (e.g. Equitable services: must demonstrate public control of funds)
  • Reimbursement – if transfer title and add to public inventory?
Puerto Rico Internal Controls over Restart (July 2019)

• OIG Reviewed Restart administration between April 2018 – Jan 2019;
• PRDE had made only 2 transactions for Restart ($589.2m award) at the time of audit; tested other federal grant (TI-A) procurements
• Findings: PRDE did not have adequate controls and procurement process
  • Did not get required approvals
  • Did not have adequate documentation
  • Inadequate monitoring plan
Virgin Islands Controls over Restart (June 2019)

- OIG Reviewed Restart administration between May 2018 – Dec 2018;
- VIDÉ had not yet spent any Restart funds ($13.1m); tested other federal grant (consolidated ESSA) procurements
- Findings: VIDÉ did not have adequate controls
  - Fiscal and program monitoring inadequate
  - Not staffed internal audit division, no standard procedures
  - Did not have risk assessment and fraud reporting process
Lessons Learned

• Establish internal controls and monitoring for CARES funding
• Build off existing procedures, but adjust as needed
• Fast timelines add to fraud risk – have alerts, processes to enable reporting
And from DHS: Audit Tips for Managing Disaster-Related Project Costs

Guidance for recipients of FEMA disaster assistance
Frequent Audit Findings

- Improper procurement practices
  - Finding: full and open competition did not occur when grantee solicited only from existing contractors;
  - Finding: Grantee accepted contractor’s proposed prices without independent cost/ price analysis

- Unsupported costs
  - Finding: labor costs documented as “salary” did not include detail of names of employees, when work was completed, or number of hours they worked

- Poor project accounting
  - Finding: did not separately account for federally-supported disaster related costs; single account included both eligible and non-eligible expenditures
Frequent Audit Findings

• Duplication of benefits
  • Finding: grantee was later reimbursed by insurance and other federal grant funds, but did not refund FEMA

• Excessive equipment charges; Excessive labor and fringe benefits
  • Finding: grantees did not follow rate schedules; charge actual rates; or document necessity of hazard pay/charges

• Unrelated project charges
  • Finding: Costs are not necessary and reasonable if not required by the disaster event

• Administrative costs; Cost allocations
  • Finding: Direct admin must be identified with specific project; inconsistent treatment of costs as direct and indirect
  • https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-120-D-Sep17.pdf
Polling Question 3

What lessons can we learn from prior disaster relief audits?

a. Being a grants administrator is hard – there are so many rules
b. In an emergency, anything goes
c. Document, document, document
d. Both a and c
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Questions?