Dollars & Sense: Federal Grant Financial Management Rules

This Webinar Series is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (T/TA) Center. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0441-01. Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.
CAA Leader’s Legal Guide

Webinar Control Panel

Enter questions & comments here
Legal Framework

| Notice of funding award (NOFA) |
| Funding source agreement       |
| Federal program authorizing statute |
| Federal program regulations, if any exist |
| OMB Uniform Guidance           |
| Federal funding source guidance, if any exist |
| For block grants: state laws and/or regulations |
What Is the Uniform Guidance?

Codified at 2 C.F.R. Part 200

Each federal agency has adopted its own version of the regulations (e.g., 45 C.F.R. Part 75 for HHS)

Office of Management and Budget regulations that supersede:

- Uniform administrative requirements circulars A-110 and A-102
- Cost principle circulars A-122, A-87, A-21
- Audit circulars A-133 and A-50
- Circular A-89 (catalogue of federal financial assistance)

For more information:

- COFAR website: [https://cfo.gov/cofar/](https://cfo.gov/cofar/)
  - Webinars, cross-walks to old rules, other resources
Who’s Covered by the Uniform Guidance?

A non-federal entity receiving federal grant funds may be a **direct recipient, subrecipient, and/or a pass-through entity**

<table>
<thead>
<tr>
<th>Examples: Non-federal Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Direct Recipient</strong></td>
</tr>
<tr>
<td>A state receiving Weatherization Assistance Program funds from the U.S. Department of Energy</td>
</tr>
<tr>
<td>A CAA receiving Head Start funds directly from the U.S. Department of Health and Human Services’ Administration for Children and Families.</td>
</tr>
<tr>
<td><strong>Subrecipient</strong></td>
</tr>
<tr>
<td>A CAA receiving Community Services Block Grant funds from a state.</td>
</tr>
<tr>
<td>A delegate agency receiving Head Start funds from a CAA.</td>
</tr>
<tr>
<td><strong>Pass-Through Entity</strong></td>
</tr>
<tr>
<td>A state CDBG Agency granting CDBG funds to a CAA.</td>
</tr>
<tr>
<td>A CAA grantee makes a subaward of Head Start funds to a delegate agency.</td>
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</tbody>
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Applicability of Uniform Guidance to Block Grants

- Only a certain sections apply to block grants
- Other sections may be incorporated by:
  - Federal law establishing funding
  - The state

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Block Grants and the Uniform Guidance

Certain Uniform Guidance sections apply to **all grants** including block grants authorized under Omnibus Reconciliation Act of 1981:

- CSBG
- LIHEAP
- Social Services
- Preventive Health and Health Services
- Alcohol, Drug Abuse, and Mental Health Services
- Maternal and Child Health Services
- States’ program of CDBG awards for small cities
- Elementary and Secondary Education
- Alcohol and Drug Abuse Treatment and Rehabilitation
- Mental Health Service for the Homeless

These certain Uniform Guidance sections also apply to:

- Child Care and Development Block Grant
- Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Block Grants and the Uniform Guidance

These parts apply to block grants:

- Subpart A – Acronyms and definitions
- Subpart B – General provisions
- § 200.202 – Public notice of federal programs
- § 200.330 – Subrecipient and contractor
- § 200.331 – Pass-through entities
- § 200.332 – Fixed amount subawards
- Subpart F – Single Audit

Additional Provision Applies to CSBG Funds

- Federal CSBG Act statute requires states to:

  “ensure that cost and accounting standards of the Office of Management and Budget apply to recipients of the funds” 42 U.S.C. § 9916(a)(1)(B)”

- Recent correcting amendments clarify that the CSBG Act language is referring to Subpart E – Cost Principles
Quiz #1: UG Applicability

A CAA can be which of the following: (Select all that apply)

a) A recipient
b) A subrecipient
c) A pass-through entity

Pass-Through Entity Requirements

Pass-through entities must comply with:

- § 200.330 – Subrecipient and contractor determinations
- § 200.331 – Requirements for pass-through entities
- § 200.332 – Fixed amount subawards

NOT required to comply with:

- Uniform Guidance requirements directed towards federal awarding agencies unless Uniform Guidance or federal award terms and conditions require otherwise
Pass-Through Entity Requirements

Must ensure that every subaward:

- Clearly identified as a subaward;
- Includes certain specified info. when awarded; and
- Subrecipient is notified of any modifications

Required info includes:

- FNICR, if none exists, either a rate negotiated between the pass-through entity and subrecipient or a 10% “de minimis” rate

- 2 CFR § 200.331

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Pass-Through Entity Requirements

<table>
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<th>Additional pass-through entity obligations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ Evaluate a subrecipient’s risk of noncompliance for purposes of determining the appropriate level monitoring.</td>
</tr>
<tr>
<td>✔ Consider imposing specific subaward conditions.</td>
</tr>
<tr>
<td>✔ Monitor a subrecipient’s activities as necessary to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and terms and conditions of the subaward, and that subaward performance goals are achieved.</td>
</tr>
<tr>
<td>✔ Verify that the subrecipient is audited as required by Subpart F of the Uniform Guidance.</td>
</tr>
<tr>
<td>✔ Consider whether the results of a subrecipient’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to a pass-through entity’s records.</td>
</tr>
<tr>
<td>✔ Consider taking enforcement action against a noncompliant subrecipient.</td>
</tr>
</tbody>
</table>

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Characteristics of financial management systems

- Identification of all federal awards and programs
- Accurate, current, and complete disclosure/reporting of each federal award/program financial results
- Records that adequately identify source and application of funds for federally-funded activities
- Adequate safeguards for all assets and property and assurances used solely for authorized purposes
- Comparison of expenditures with budget amounts for each federal award
- Written procedures to implement payment requirements and for determining allowability of costs
Internal Controls

Non-federal entities must:

• Establish and maintain effective internal controls that provide reasonable assurance that they are managing federal awards in compliance with federal statutes, regs and award terms and conditions.

• Internal controls should comply with:
  
  o “Standards for Internal Control in the Federal Government”
  
  o COSO “Internal Control Integrated Framework”
    [http://www.coso.org/ic.htm](http://www.coso.org/ic.htm)

- 2 C.F.R. § 200.203

COSO Framework

Generally:

• Plans, methods, policies, and procedures an organization employs to ensure effective resource use in fulfilling its mission, goals, objectives, and strategic plan.
COSO Framework

Control environment

Monitoring

Risk assessment

Information & effective communication

Control activities

Internal Controls

10 ACTION STEPS TO COMPLIANCE AND ETHICAL STANDARDS

Set the “Tone at the Top”

Think Globally

Put It on Paper

Assign Responsibility and Require Accountability

Communicate

Work with an Attorney

Continuously Improve

Follow through Promptly and Effectively

Trust, but Verify

Get Up-to-Speed and Stay Up-to-Date

Exemplary Legal Practices and Policies Guidebook, Part I: Do the Right Thing: How to Cultivate a Culture of Compliance and High Ethical Standards
http://www.caplaw.org/resources/PublicationDocuments/ExemplaryPracticesGuidebook.html
Quiz #2: Internal Controls

The Uniform Guidance outlines the exact system of internal controls that a non-federal entity must implement

True or False?
Procurement

Effective Date of Procurement Standards

Optional grace period:

- **Two** full fiscal years after Dec. 26, 2014 in which non-federal entities may continue to use old procurement rules
- Must document decision in internal procurement policies

- 2 C.F.R. § 200.110(a)
General Procurement Standards

Standards include:

- Using own documented procurement procedures reflecting all applicable state/federal laws
- Avoiding the purchase of unnecessary or duplicative items
- Maintaining records detailing history of procurement, rationale for method of procurement, selection of contract type, contractor selection/rejection, basis for contract price

- 2 C.F.R. § 200.318

Must maintain written standards of conduct

The standards of conduct covering conflicts of interest must:

- Provide for disciplinary actions for violations;
- Bar employees, officers and agents from participating in the selection, award or administration of a contract if they have an actual or apparent conflict of interest;
- Prohibit officers, employees and agents of the grantee from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or parties to subcontracts (except for situations where the financial interest is not substantial or the gift is an unsolicited item of nominal value); and
- Cover organizational conflicts of interest if the grantee has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe.

- 2 C.F.R. § 200.318
Competition

• All procurement transactions must be conducted in a manner providing full and open competition
  
  – NOTE: cost or price analysis no longer required for every procurement transaction

• May not apply state or local geographic preferences, except where required or encouraged by federal statute

- 2 C.F.R. § 200.319

Methods of Procurement

Rules outline specific methods of procurement and requirements for each method:

• Micro-purchases for $0 ≥ $3500

• Small purchases for Simplified Acquisition Threshold of $150,000 or less. Price and rate quotes must be obtained.

• Sealed bids

• Competitive proposals

• Non-competitive proposals (sole source)

- 2 C.F.R. § 200.320
**Micropurchase**

≥ $3500

- **NOT required**: competitive rate quotations or cost/price analysis
- Maintain list of qualified suppliers and rotate purchases among them

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**Small Purchases**

$3,500 - $150,000

- **NOT required**: competitive rate quotations or cost price analysis
- Obtain price and rate quotations from an adequate number of suppliers
Purchase Over Simplified Acquisition Threshold
Greater than $150,000

• Cost or price analysis required
• Profit must be negotiated as a separate element of price
• **Options**: sealed bids, competitive proposals, non-competitive proposals (sole source)

Noncompetitive Proposals
Sole Source

• Available option **only** when one or more of following apply:
  – Item available only from single source
  – Urgent public need/emergency does not permit delay from competitive bid process
  – Federal awarding agency or pass-through entity expressly authorizes in response to written request; or
  – After solicitation of number of sources, competition determined inadequate
    - §200.320(f)
Quiz #3: Procurement

Which of the following is required for all procurements? (Select all that apply)

a) Cost or price analysis
b) Records detailing the history of the procurement
c) Full and open competition

A Few More Uniform Administrative Requirements
Cost Sharing & Matching

Any shared costs or matching funds must meet all of the following criteria:

• Verifiable from the non-Federal entity's records;
• Not included as contributions for any other Federal award;
• Necessary and reasonable for accomplishment of project or program objectives;
• Allowable under Subpart E—Cost Principles;

- §200.306(b)
Cost Sharing & Matching

Any shared costs or matching funds must meet all of the following criteria:

• Not paid with federal award funds, unless the federal program authorizing statute specifically provides for such use;

• Provided for in the approved budget when required by the Federal awarding agency; and

• Conform to other provisions of this part of the Uniform Guidance, as applicable

- §200.306(b)

Program Income

• A grantee’s gross income directly generated by a grant-supported activity or earned as a result of grant award

• **Includes:**
  – Fees for services
  – Income from use/rental of property acquired with grant funds
  – Income from sale of commodities/items made under grant award
  – Interest on loans made with grant funds

- 2 CFR § 200.80
Use of Program Income

Program income can be used in one of the following ways:

<table>
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<tr>
<th>Addition</th>
<th>Deduction</th>
<th>Cost Sharing/Matching</th>
</tr>
</thead>
<tbody>
<tr>
<td>Added to federal funds committed to the program and used to further eligible program objectives.</td>
<td>Deducted from total allowable costs to determine net allowable costs on which the federal share of costs is based and used to reduce the federal award and CAA's share of costs.</td>
<td>Used to finance either some or all of the non-federal share of the program, and the amount of the federal award remains the same.</td>
</tr>
</tbody>
</table>

- 2 C.F.R. § 200.307

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Cost Allocation
Basic Considerations

Good or service costs are chargeable to a federal award in accordance with relative benefits received if the cost:

- is incurred specifically for a federal award
- can be properly distributed using reasonable methods when it benefits both federal awards and other work
- is necessary for overall operations and assignable in part to the federal award in accordance with the cost principles

- 2 C.F.R. § 200.403

Types of Costs

Direct

- Readily identifiable
- Directly assignable to federal grant activity relatively easily and with high degree of accuracy

Indirect

- Incurred for common or joint purpose
- Benefits more than one cost objective
- Not readily assignable to cost objective specifically benefitted, without effort disproportionate to results achieved
Administrative Staff

Direct charging conditions for administrative staff

- Administrative or clerical services are integral to a project or activity;
- Individuals involved can be specifically identified with the project or activity;
- Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- The costs are not also recovered as indirect costs.\(^4\)

Recovering Costs

Options

- Federally Negotiated Indirect Cost Rate
- 10% De Minimis Rate
- Extension of Rate
- Cost Allocation Plan
- 10% of MTDC
A Few Selected Items of Cost

“Old” Rules on Compensation for Personal Services: PARs

- Reflect after-the-fact determination of employee’s actual activity
- Account for total activity for which employees compensated
- Signed by employee or supervisor
- Represent reasonable estimate of actual work performed by employee
- Prepared at least monthly
- Coincide with one or more pay periods
“New” Rules on Compensation for Personal Services

Charges must be based on records accurately reflecting work performed

If following standards met, no additional documentation required:

- Supported by system of internal control
- Incorporated in official records
- Reasonably reflect the total compensated activity
- Encompass all activities – federal and non federal
- Comply with established accounting practices and policies
- Support distribution of employee’s salary among specific activities or cost objective

- 2 C.F.R. § 200.430

Compensation

- If use budget estimates (estimates determined before services performed) must:
  - Have system that produces reasonable approximation of actual activity
  - Enter significant changes into records in a timely manner
  - Follow processes to review after-the-fact interim charges to estimate and ensure final amount charged is accurate, allowable and properly allocated
Fines, Penalties, Damages and Other Settlements

• Other settlement costs and damages resulting from violations of, alleged violations of or failure to comply with laws and regs are unallowable except:
  – When incurred as a result of compliance with Federal award provisions or
  – With prior written approval from the awarding agency

- 2 C.F.R. § 200.441

Fundraising and Investment Management Costs

• Fundraising costs for meeting federal program objectives are allowable with prior written approval from federal awarding agency

• Investment counsel and staff costs (currently unallowable) are allowable when associated with investments covering pension, self insurance or other funds which include federal participation

- 2 C.F.R. § 200.422
Proposal Costs

• Proposal costs include:
  
  – Preparing bids, proposals, or applications on potential Federal/non-Federal awards or projects, including development of support data

  – Successful and unsuccessful bids

• Must be current costs, treated as indirect and allocated to all entity activities

• No past proposal costs will be allocable to current accounting period

  - 2 C.F.R. § 200.460

Quiz #4: Selected Costs

Settlement costs and damages resulting from violations or alleged violations of laws and regulations are:

a) Allowable

b) Allowable with prior approval

c) Allowable if incurred as result of federal award provision

d) Unallowable
Single Audit

General Single Audit Requirements

A CAA must conduct a Single Audit if:

- It expends $750,000 or more in federal awards during the CAA’s fiscal year

- 2 C.F.R. § 200.501

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General Single Audit Requirements

**Frequency**

- With limited exceptions, the Single Audit must be performed annually  
  - 2 C.F.R. § 200.504

**Cost**

- A reasonably proportionate share of costs involved with performing the audit may be charged to the federal award  
  - 2 C.F.R. § 200.425

Board’s Role in a Single Audit

**Responsibilities**

- Selecting the auditor
- Assuring auditor independence
- Communicating with the auditor
- Overseeing integrity of internal controls

**Audit Committee**

- May act on behalf of board re: aspects of audit
- Works closely with management
Management’s Role in a Single Audit

Responsibilities

- Pre-audit planning
- Preparing financial statements
- Ensuring development and implementation of internal controls

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