

FEDERAL REGULATION UPDATE

NCCAA ANNUAL CONFERENCE

MAY 15, 2019

1:30 P.M. TO 3:00 P.M.

AGENDA

- 2 CFR 200 Update
 - Federal update
 - Single Audit Focus
 - Indirect Cost Approach
 - COSO framework and self assessment

PRESIDENTS MANAGEMENT AGENDA

- OMB Strategy #3 – Manage Risk – To Leverage data, including data from annual audits, to assess & manage recipient risk.
- What does this mean to you?
 - Issue streamlined 2019 Single Audit Compliance Supplement – So.... Best place to find determine what areas your auditors should/will be focusing on.

PRESIDENTS MANAGEMENT AGENDA

- Strategy 4: Achieve Program Goals & Objectives
 - Hold recipients accountable for good performance practices that support achievement of program goals & objectives; & **streamline burdensome compliance requirements** for those that demonstrate results.
 - Long term, if successful there is the potential for certain compliance requirements to be alleviated.

HHS INITIATIVES REINVENT GRANTS MANAGEMENT

- HHS has undertaken an initiative to streamline and improve grants management from a federal level by establishing guiding principles.
- What does simplified look like?

OTHER INITIATIVES BY THE FEDERAL GOVERNMENT

- DATA Act - Expanded FFATA by linking expenditures to spending by agencies.
 - Simplify reporting for entities receiving federal funds and thus compliance costs.....
- Great Act - requires the creation of a comprehensive and standardized data structure. 2 to 3 year horizon ...
- GONE Act – The intent was to force federal agencies and recipients to close grants in a timely manner.

SINGLE AUDITS

SINGLE AUDITS – WHAT ARE THEY FINDING

- Findings
 - Written Procedures –
 - Lack of current written procedures – Allowability and Procurement
 - Lack of Sole Source Justifications
 - Indirect costs
 - Application to incorrect base
 - **Federal agencies will be providing a listing of 6 of the 12 compliance requirements to focus on for each program;**

WRITTEN PROCEDURES

- Allowability
- 2CFR 200.302(b)(7)
 - “Written procedures for determining the allowability of costs in accordance with Subpart E— Cost Principles of this part and the terms and conditions of the Federal award.”
 - Budget preparation and comparison to actual
 - Position that determines allowable cost
 - What position validates supporting documentation
 - Segregation of duties

PROCUREMENT

- Procurement and Conflict of Interest
- 2 CFR 20.318 (a)
 - (a) “The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.”
 - (c)(1) “The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.”

NON-COMPETITIVE BIDS – SOLE SOURCE

- Justification

- **Evidential determination that only one source is available**
- **Public emergency**
- Based on results of technical evaluation and cost price analysis
- **Competition determined inadequate**
- Type of contract: fixed price or cost-reimbursement

- Internal controls

- Unbiased technical reviewers (conflict of interest)
- Assign signature authority to someone who can review budget, allowability, reasonableness, allocability and best price.
- **Signature authority affirms rationale for sole source**
- Assign signature authority for approval.

NON-COMPETITIVE BIDS – SOLE SOURCE

- Data elements
 - Item(s) needed
 - Quantity
 - Delivery requirements
 - Date needed
 - Installation
 - Warranty
 - Past performance
 - Debarment & suspension
- Compliance actions
 - **Determine if procurement is a public emergency, or only available from one source**
 - **Awarding agency (written) approval for non-competitive proposals**
 - Prepare and publicize bid
 - Evaluate responses
- Forms and Documentation
 - Similar to competitive and sealed bids
 - **Awarding agency approval**
 - **Sole source justification letter/document**

NON-COMPETITIVE BIDS – SOLE SOURCE JUSTIFICATION

- Continuation of an ongoing service or an addition to a critical system already procured from that supplier. (List the reasons why it would not be cost effective and/or schedule effective and/or technical risk mitigation prudent to procure with another supplier for this procurement)
- (Only known supplier. (List of the suppliers which were contacted below and the specific reasons why each was not a viable source)
- Only known qualified supplier or item. (List the qualifications that each source or items meet. If another supplier offers a similar item, provide the item identification, supplier information and comparable pricing).
- Supplier proprietary item. (The selected supplier is the only manufacturer of this item. List the reasons why no substitute item can be used and if no similar item is available)
- Government or Customer Directed. (Provide a copy of the contract page which directs this source or a customer letter, or memo or e-mail specifically directing this source)

Authority Matrix – Small organization

	Functional Approval ⁽⁴⁾				Financial Approval		
	Team Member	Exec Team	CEO	Board	Controller	CFO	Legal
Operating Expenses							
Up to \$10K	Approves				Approves ⁽¹⁾	Approves ⁽²⁾	
>\$10K up to \$50K		Approves				Approves	
>\$50K up to \$100K			Approves			Approves	
above \$100K			Approves ⁽¹⁾	Approves ⁽²⁾		Approves	

Notes/Comments:

(1) If in Plan

(2) If Not Included in Company Plan

(3) Approved by Compensation Committee (or Board if no Compensation Committee)

(4) Approval from function responsible for supporting associated objectives and goals

(5) CEO review of transaction should ensure request submitted from member of accounting team and in-line with past practice.

INDIRECT COSTS

- Indirect costs not recovered because of a cap or limitation on recovery can be used as match.
- This works for either the de-minimis or a Negotiated Indirect Cost Rate (NICRA)
- Example:
 - \$20,000 Indirect cost associated with a particular program based on NICRA
 - \$15,000 Cap on indirect cost based on award
 - \$ 5,000 Remaining amount allocated but unclaimed
 - \$ 5,000 allowed to be used as match for program

WEATHERIZATION ADDITIONAL TOPICS

- Travel – Which policy to follow
 - Most Restrictive
- Auditor Rotation – Options
 - New firm
 - Staffing Rotation
- Software – Whats in your wallet?
- When are your low risk programs being audited?
 - What is your risk?

SMALL AND MINORITY BUSINESS

- 2 CFR 200.321
- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

PROCUREMENT OF RECOVERED MATERIALS

- 2 CFR 200.322
- A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000
 - This includes Blanket insulation, Board insulation, Cellulose fiber loose-fill, Fiberglass insulation

INTERNAL CONTROLS

CONTROL SELF RISK ASSESSMENT

- First step in creating written policies and procedures
- Determine your risks and mitigate those risks
- Mitigation is accomplished via a combination
 - Control activities
 - Environment
 - Information and Communication
 - Monitoring Activities



CONTROL ACTIVITIES

- **Actions established through policies and procedures that help ensure that management's directives to mitigate risks to the achievement of objectives are carried out.**
 - Reporting accurately, completely, and timely
 - Ensuring allowable cost are only costs incurred
 - Maximum Efficiency is attained

ENVIRONMENT

- Tone and Activities of organization
- Who set the Tone?
 - Answer everyone
- Examples
 - Board involvement
 - Written policies consistently applied
 - Zero tolerance enforced
 - Written Job aids and performance evaluations

INFORMATION AND COMMUNICATION

- How an organizations communicates with its employees important information including
 - Approved policies and procedures
 - Changes to above noted policies
 - Organizational Goals
 - Accomplishments
 - Does communicating mean comprehension by employees?

MONITORING

- Regular observation and recording of activities taking place in a project or program.
 - Review of budget to actual
 - Random and/or periodic review of support by individual external to process and approval chain
 - Built into the process not as an after thought.

QUESTIONS

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