



Office of Budget
and Management

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**If you think compliance
is expensive –
try non-compliance!**

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Budget and Management



1



9/29/2022

2

2

Today's Topics



Compliance Framework



Uniform Guidance



Build or Strengthen Your Compliance Framework



Non-Compliance Case Studies

3

3



9/29/2022

What is a compliance framework?

4

4

Key Compliance Framework Areas

People

Systems

Policies

Procedures

Environment

Template Resources

5

5



Framework Considerations

- Align with federal regulations?
- Continuous improvement or evaluation?
- Reporting or performance metrics ready?
- Audit ready?

6



7

What is the Uniform Guidance?

- Government-wide framework for grants management
- Authoritative set of rules and requirements for Federal awards



8

8

Structure of Uniform Guidance

2 CFR Paragraph	Subpart	Definition
200.0	A	Acronyms and definitions
200.100	B	General provisions of guidance (purpose and applicability)
200.200	C	Pre-federal award requirements and content of awards
200.300	D	Post-award requirements
200.400	E	Cost principles
200.500	F	Audit requirements (includes legacy A-133 requirements)
Appendices to Part 200	I-XII	Additional guidance on topics such as indirect cost principles and the OMB compliance supplement

9

Post-Award Key Concepts – Cost Principles (2 CFR 200.403)

- Necessary and reasonable
- Allocable
- Conforming to limitations or exclusions
- Consistent with policies, regulations, and procedures
- Costs are treated consistently
- Determined in accordance with GAAP
- Not included as a match or cost-share
- Adequately documented
- Incurred during the budget period



10

Post-Award Key Concepts

- Always track federal funds separate in a **Special Revenue Fund**
- Each Federal award should be tracked with a **unique identifier**
- Expenditure of Federal funds **over \$750,000** in an entity's fiscal year will require a Single Audit
- Federal funds should **always be a supplement** to your program and cannot replace budgeted expenditures (that is called supplanting)



11

Post Award Key Concepts

Be familiar with what **types of expenditures** are allowed.

Know the **budget period, period of performance, and liquidation period.**

Be aware if your grant has a **match or maintenance of effort** requirement.

- Unless specifically allowed, you **cannot** match Federal funds with Federal funds.
- In-kind match may be allowed, but **documentation** is important.



12

Post-Award Key Concepts



Personnel costs directly charged should ensure appropriate documentation.



Salaries of administrative & clerical staff should normally be treated as indirect (may have exception).



Indirect costs must either have an approved rate or use the de minimis rate.



13

13

Post Award Key Concepts



Documentation and record retention



Properly handle interest and program income



Transfers of equipment or funds to other entities

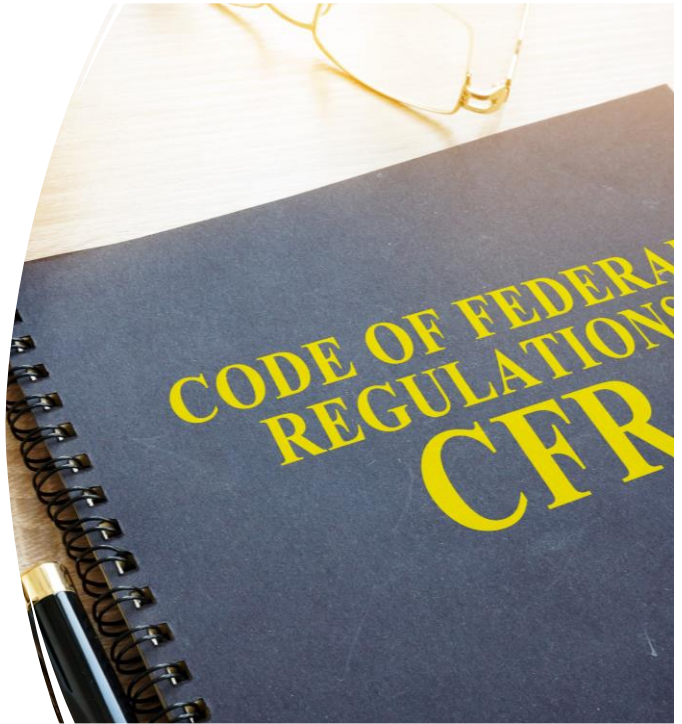


14

14

What procurement rules apply?

- 2 CFR 200.317 allows for a State to follow the same policies and procedures it uses for procurement from its non-federal funds
- All other non-federal entities must follow 2 CFR 200.318 through 327



15

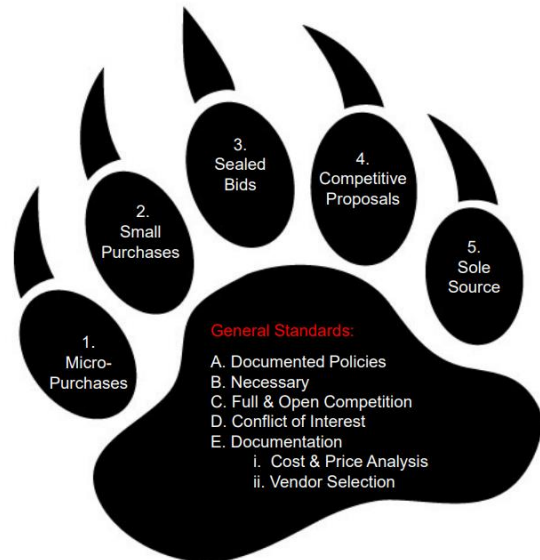
Follow the most
restrictive
procurement
requirements!



16

The Procurement “Claw”

Procurement “Claw” (Sections 200.317-326)



Source:

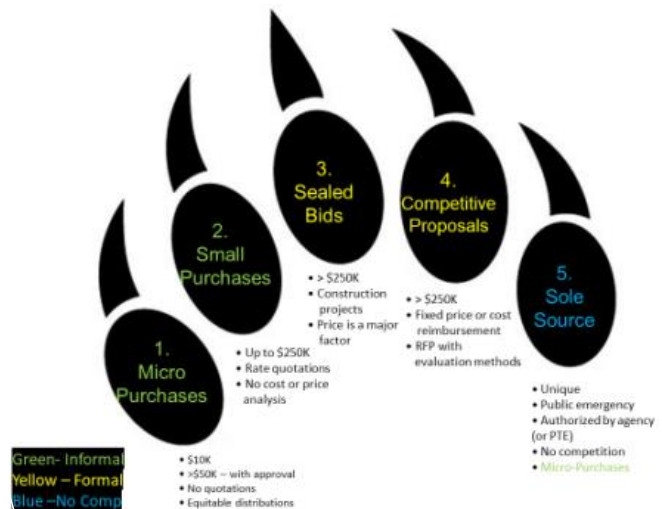
Innovation Exchange April 2021, OMB Updates: 2 CFR Revisions and M-21-30

<https://www.cfo.gov/wp-content/uploads/2021/April-Grants-Innovation-Exchange.pdf>

17

The Procurement “Claw” (Sections 200.320)

Procurement “Claw” (Section 200.320)



Source:

Innovation Exchange April 2021, OMB Updates: 2 CFR Revisions and M-21-30

<https://www.cfo.gov/wp-content/uploads/2021/April-Grants-Innovation-Exchange.pdf>

18

Informal Procurement Methods 2 CFR 200.320

Micro-purchases

Responsible for determining and documenting micro-purchase threshold based on internal controls, evaluation of risk, and documented procurement procedures not to exceed the FAR **(\$10K or less, unless self-certify up to \$50K)**

19



Informal Procurement Methods 2 CFR 200.320

Small Purchases

Responsible for determining an appropriate SAT based on internal controls, evaluation of risk, and documentation of procurement procedures not to exceed the threshold in the FAR (currently \$250K)

20

Formal Procurement Methods

2 CFR 200.320

Exceeds the SAT (over \$250K or lower threshold determined by recipient)

- **Sealed Bids**
- **Proposals**



21



Non-Competitive Procurement (Sole Source)
2 CFR 200.320

Can only be used if one or more of the following circumstances apply:

1. Aggregate dollar amount does not exceed the micro-purchase threshold;
2. Only from a single source;
3. Public exigency or emergency;
4. Authorization granted from the Federal awarding agency or pass-through entity in response to a written request from the non-Federal entity; or
5. Competition is determined inadequate after solicitation of a number of sources.

22



Contract Cost and Price 2 CFR 200.324

- Must perform either a cost or price analysis over the SAT (\$250K)
- Must negotiate profit as a separate element of the price when:
 - No price competition or
 - A cost analysis is performed

23

Suspension and Debarment 2 CFR 200.214; 2 CFR Part 180

24



Never contract with the enemy 2 CFR 200.215; 2 CFR Part 183

Expected to exceed \$50,000 within the period of performance

Appendix A to 2 CFR Part 183 provisions to all contracts and subawards under the award

25



Prohibition on certain telecommunications and video surveillance services or equipment

2 CFR 200.216

26

Domestic preferences for procurements 2 CFR 200.322

To the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.



27



Build America, Buy America Act
Pub. L. No. 117-58, §§ 70901-52

All the iron, steel, manufactured products, and construction materials used in infrastructure projects are produced in the United States

28

28

Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms 2 CFR 200.321

Must take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

29

Contract Provisions - 2 CFR 200.327

Contracts must contain the applicable provisions outlined in Appendix II of 2 CFR Part 200, as applicable

Threshold	Applicable Provisions
\$0	<ul style="list-style-type: none"> • Equal Employment Opportunity – All Federally assigned construction contracts. • Rights to Inventions Made Under a Contract or Agreement – use in any funding agreement requiring experimental, developmental, or research work. • Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment • Never Contract with the Enemy • Domestic preferences for procurement* <p>* May be revised to align with the Buy American Act</p>

30

Threshold	Applicable Provisions
\$2,000	<ul style="list-style-type: none"> • Davis Bacon Act (federally assisted construction contracts) • Copeland Anti-Kickback Act (federally assisted construction contracts)
\$10,000	<ul style="list-style-type: none"> • Procurement of Recovered Materials • Termination Provisions (cause/default and convenience)
\$25,000	<ul style="list-style-type: none"> • Debarment and Suspension – required to check SAM exclusions prior to any award of \$25k or greater
\$100,000	<ul style="list-style-type: none"> • Contract Work Hours and Safety Standard Act – applies to all contracts involving the employment of mechanics or laborers • Byrd Anti-Lobbying Amendment
\$150,000	<ul style="list-style-type: none"> • Clean Air Act and Federal Water Pollution Control Act – applies to contracts and subawards
\$250,000/ SAT	<ul style="list-style-type: none"> • Contracts awarded must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms; must provide sanctions and penalties as appropriate

31

31



32

32



33

Equipment versus Supplies

33

Equipment and Inventory Key Concepts

- Physical inventory
- Adequate safeguards
- Adequate maintenance procedures
- Disposition



34



Tagging and Inventory Records

Equipment purchased *must be* tagged and tracked

Property records *must be* maintained


35

Policies or Procedures Required by Uniform Guidance

- **Financial Management** – 200.302(b)(6)
- **Federal Payment** – 200.305
- **Allowable costs** – 200.302 (b)(7)



36



Policies or Procedures Required by Uniform Guidance

- **General procurement standards** – 200.317 and 200.318
- **Competition** – 200.319 (d)

37



Policies or Procedures Required by Uniform Guidance

- **Methods of procurement to be followed** – 200.320
 - Procurement thresholds
- **Conflicts of interest** – 200.112
 - Must establish conflict of interest policies for federal awards

38

38



At a minimum should include:

Procurement Policy

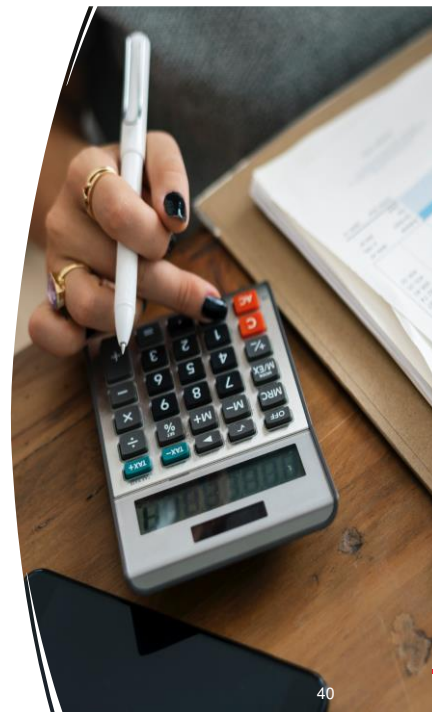
- Conflicts of interest
- Standards for process and compliance
- Thresholds
- Contract standards

39

39

Policies or Procedures Necessary to Comply with Uniform Guidance

- **Mandatory disclosures** – 200.113
- **Internal controls** – 200.303
- **Equipment** – 200.313
- **Requirements for pass-through entities** - 200.332
- **Retention requirements for records** – 200.334
- **Compensation** – 200.430
- **Travel costs** – 200.474



40

40



Strengthening the Framework

41



Conduct a Compliance Inventory and Assessment

42

Consider Internal Controls

- Control Environment
- Risk Assessment
- Control Activities
- Information and Communication
- Monitoring



43

43



Staying Current

44

44

Periodic Evaluation and Adjustment



45

45



46

46



Case Study #1 – Not Following Uniform Guidance

Questioned costs totaled ***nearly \$5 million*** in the following categories:

- Unsupported Allocations
- Transactions Outside the Performance Period
- Misclassification of Expenditures
- Unsupported Transactions
- Unrelated to Grant Activity

Source: U.S. DHS Office of Inspector General report, Ohio Law Enforcement Terrorism Prevention Program 2004-2006

https://www.oig.dhs.gov/assets/Mgmt/OIG_11-60_Mar11.pdf

47

47



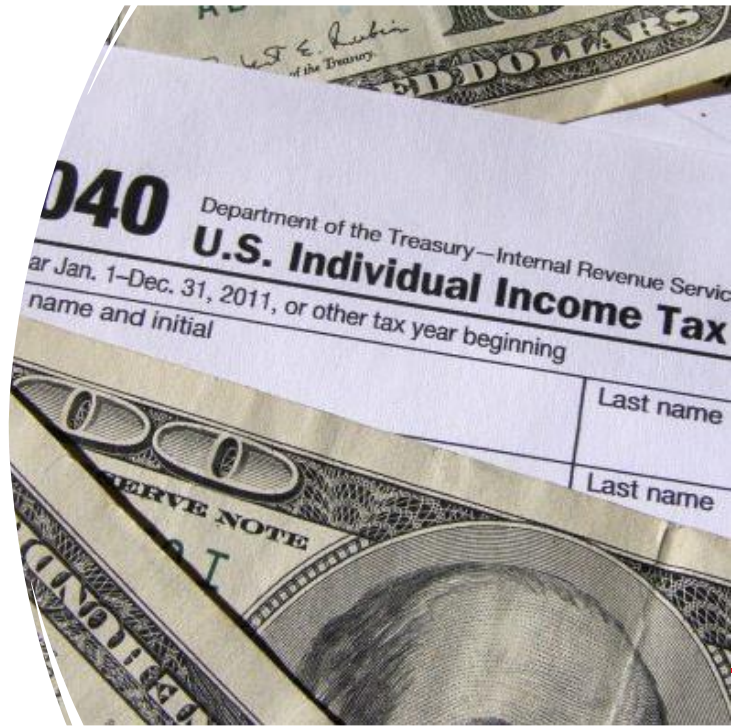
How did this happen?

48

48

Payroll Expenditures

\$2.8 million in Questioned Costs



49



\$1.9 million in Questioned Costs

- Unsupported Allocations-\$365K
- Outside the Performance Period-\$789k
- Misclassification of Expenditures- \$345k

Non-Payroll Expenditures

50

50

25

Non-Payroll Expenditures (continued)

\$1.9 million in Questioned Costs

Unsupported Transactions- \$269k

Unrelated to Grant Activity-
\$222k



51

Case Study #2 – Procurement

Procurement practices by 14 subrecipients led
to a questioned cost of **\$3.5 million**

US DHS, Office of the Inspector General report, Ohio's Management of Homeland Security Grant
Program https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-08_Jan15.pdf

9/29/2022

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52

52

How did this happen?

Confusion on
procurement
requirements

Failed to keep
documentation

53

53

Final Thoughts

- Non-compliance can require an organization to pay back funds and damage their reputation.
- Learn from others compliance pitfalls.
- Never too late to evaluate and update your process to align to federal requirements.

54

54

Ohio The Ohio Grants Partnership

OHIO GRANTS PARTNERSHIP FUNDING OPPORTUNITIES HELPFUL RESOURCES FOR STATE AGENCIES

Local Government Relief

Local Government

Ohio Grants Partnership

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The Ohio Grants Partnership

The Ohio Grants Partnership was created by the Ohio Office of Budget and Management to provide support to Ohio's grant management community. This site is intended to be utilized as a resource subrecipients of the state to access training, best practice resources, funding opportunities, guidance, and links to other beneficial grants information. The partnership is newly formed, so check the site as new information will be added.

Grants.ohio.gov

Grants Resources

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Email us at grants@obm.ohio.gov

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Information about the Ohio Grants Partnership

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Helpful Resources
Grant tools and resources for more information

For State Agencies
Submit a funding opportunity

55



56