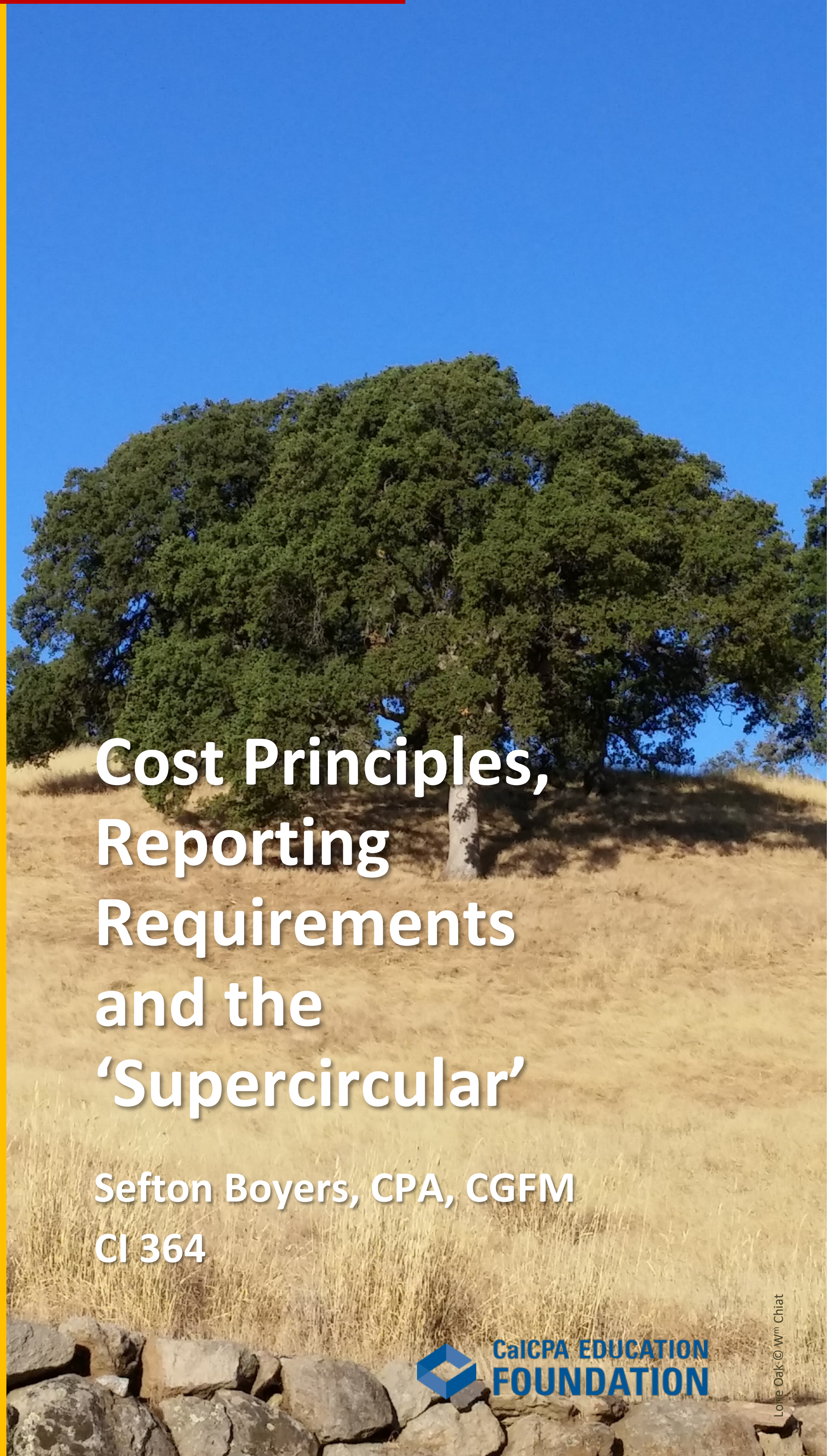
CLASS MATERIALS



Cost Principles, Reporting Requirements and the ‘Supercircular’

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CI 364

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Final guidance covers all aspects of federal grants

- Administrative rules
- Cost principles
- Single Audit requirements
- Issued December 26, 2013 (Merry Christmas!)
- Became effective 12/26/2014

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Supersedes many OMB Circulars

- Admin Rules
  - A-102
  - A-110 (2 CFR 215)
- Cost Principles
  - A-21 (2 CFR 220)
  - A-87 (2 CFR 225)
  - A-122 (2 CFR 230)
- Other
  - A-50 (Audit follow up on Single Audits)
  - A-89 (Catalog of Federal Domestic Assistance)
  - A-133 (Single Audit Requirements)

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Supercircular – a chronology

- 2/28/12: OMB advance notice of proposed guidance
- 2/1/13: OMB notice of proposed guidance
- 12/26/13: OMB issuance of uniform guidance (2 CFR 200)
- 12/26/14: Supercircular implementation
  - Admin rules and cost principles for grant years starting after 12/25/14
  - Single Audits for fiscal years starting after 12/25/14

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Intended to streamline grant rules

- Eliminate duplicative and conflicting guidance
- Focus on performance over compliance
- Encourage efficient use of IT
- More consistent treatment of costs
- Limit costs to best use federal resources
- Strengthen oversight
- Target audits to risk of fraud, waste and abuse

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Four types of regulations apply to most federal grants and contracts

- Cross-cutting administrative rules
- Cross-cutting cost principles
- Programmatic regulations
- Specific terms and conditions

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Hierarchy of Rules

- U.S. Constitution
- Federal laws
  - OMB Circulars
  - Program regulations
- State laws
  - State regulations

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Office of Management and Budget

- Issues OMB Circulars, which apply to federal agencies
- Issued the general grant rules
- Reviews new regulations to ensure they conform with:
  - OMB Circulars
  - Other federal policies

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Regulations subject to public comment

- Issued in Federal Register
- 30 days or more for comment
- Then issued in final
- Format
  - Year identifier
  - FR
  - Page number

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Code of Federal Regulations

- Regulations issued during the year
- Consolidated package for each Title once a year
- Consolidated package issued in book form and on www.eCFR.gov
- Format
  - Title (one or two digit number)
  - CFR
  - Part No. (equivalent to a chapter)

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Subpart A: Acronyms and definitions

- Acronyms are all in §200.0
- Definitions in §200.1 to §200.99
- Lots of definitions
- We'll just cover changes and ones that are often misunderstood

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Definitions

- Auditee: Non-federal entity that is required to have a Single Audit
- Contract: An agreement to **procure** goods or services
- Equipment: Tangible property with a useful life more than a year and an acquisition cost over $5,000
- Final cost objective: A cost objective that has both direct and indirect costs allocated to it

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Definitions (cont.)

- Indian tribe: Recognized by Dept. of Interior
- IHE: Institution of higher education
- Intangible property: No physical existence, such as trademarks, copyrights, stocks and bonds

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More definitions

- Non-federal entity: state or local government, Indian tribe or nonprofit organization that is a recipient or subrecipient
- Pass-through entity: a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program
- PII: Personally identifiable information

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Even more definitions

- Simplified acquisition threshold: Amount below which a recipient can use small purchase methods for procurement. The threshold is currently $150,000
- State: States, DC, territories, and the Marianas
- Voluntary committed cost sharing: Matching costs pledged by the grantee that becomes binding in the grant agreement

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Subpart B: General provisions

- §200.100 to §200.113
- Rules flow down to subrecipients
- Fed agencies cannot impose additional or conflicting provisions
- Table shows which requirements relate to which grant types
- Federal agencies must establish conflict-of-interest policies on awards
- Recipients must disclose all illegal acts to feds in writing

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Subpart C: Pre-award requirements

- §200.200 to §200.211
- Feds **and pass-through entities** must use Federal Grant and Cooperative Agreement Act (FGCA) to determine appropriate award instrument
- Agencies can make fixed-amount awards, but shouldn't permit profit
- Pass-through entities that have prior approval, can make fixed-amount subawards

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Public Notice

- Federal agencies must include programs in CFDA
- Must provide specific info to GSA
- Provide public notice of all competitive grant opportunities

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Federal agency review of competitive applications

- Must have a merit review process that is described in public notice
- Agency must consider risk posed by grant applicants before making award
- Agency or pass-through agency may impose additional restrictions for "high-risk" grantees
- Agency must publicize all grant awards

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Considering risks posed by grantees

- For competitive grants, feds must have a framework for evaluating risks before applicants receive awards
- Can consider:
  - Financial stability
  - Quality of management systems
  - History of performance
  - Audit findings

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Subpart D: Post-award requirements

- §200.300 to §200.345
- Cover financial management and program management
- Must administer grants in accordance with National Priority Requirements (public welfare, anti-discrimination, environment, etc.)
- Agency must require financial and performance reporting in accordance with OMB standards

20

Financial management rules

- States follow their own procedures
- Financial management systems of **all** entities:
  - Must allow for required reports
  - Must permit tracing of funds to be sure they were spent in accordance with the rules

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Financial management rules (cont.)

- Show all federal funds rec'd and expended
- Accurate, current and complete accounting info
- Records show fund source and application
- Adequate internal controls
- Comparison of budget vs. expenditures
- Written procedures dealing with advance payments and allowability of costs

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Internal controls

- Reasonable assurance that grant programs are in compliance
  - Follow GAO internal control standards
  - Follow COSO internal control framework
- Take prompt action when noncompliance identified
- Reasonable measures to protect personally identifiable information (PII)

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Payments (advance funding)

- States are covered by CMIA
- Other entities must minimize the time for advance funding
- Advancing funds is the norm
- Advance payments must be consolidated
- Grantees can request funds as frequently as they want with EFT
- Otherwise can request funds at least monthly

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Other rules on payments

- If entity does not qualify for advance funding, reimbursement is first choice
- If entity doesn't have financial resources for reimbursement, feds can provide advance of working capital
- Agencies cannot withhold any funds unless:
  - Grantee has violated requirements
  - Grantee is delinquent on federal debt

25

Depository accounts for advanced funds

- Feds cannot require separate bank accounts
- Funds must be kept in insured accounts
- Use interest bearing accounts, unless:
  - Grantee receives <$120,000 per year
  - Account not expected to earn >$500 per year
  - Minimum balance requirements not feasible
- Grantee can keep first $500 of interest
- Additional interest should be remitted to HHS

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Cost sharing/matching on research grants

- Not required
- Voluntary committed matching is not expected, and can't be used as a factor in the award decision
- Criteria for considering voluntary matching must be described in notice of funding opportunity
- Only mandatory cost sharing can be considered in organized research for calculating the indirect cost rate

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Cost sharing must be accepted when it is:

- Verifiable from the entity's records
- Not charged to, or used as cost sharing on, another award
- Necessary, reasonable and allowable
- Included in the approved award budget

Unrecovered indirect costs can be claimed as cost sharing only with the agency's approval

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Valuing third party contributions

- For real property donated as direct cost, lesser or:
  - Book value at time of donation
  - Current FMV
- Use FMV for equipment
- Volunteer time should be valued at usual rates
- Employee time donated by third parties valued at usual rates, including fringe benefits

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Program income

- Grantees encouraged to earn program income
- Grantee governmental revenues are not considered program income
- Agency may approve offsetting income with costs
- Revenue from selling property is not program income

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Use of program income

- Deductive method
- Additive method
- Cost sharing
- Default methods
  - For most grants, use deductive method
  - For IHE's and nonprofit research institutions, use additive method
- No obligation after the grant period

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Budget revisions needing approval – nonconstruction grants

- Change in scope or objectives
- Change or significant reduction of time of a key person (PI or PD)
- Transfer out of participant support costs
- Change in cost-sharing
- Switch between construction and nonconstruction
- For grants >$150,000 transfers >10% of total award

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Budget revisions needing approval – construction grants

- Change in scope or objectives
- Need for additional funds
- Need for costs requiring prior approval

No other restrictions on budget revisions can be placed on construction or nonconstruction grants

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Property standards

- Same insurance for property acquired under federal award
- Real property
- Title vests in grantee
  - Use for original purpose as long as needed
  - When no longer needed, feds decide:
    - Keep and reimburse feds
    - Sell and reimburse feds
    - Give to feds and get reimbursed

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Federally owned property

- Feds retain title
- Entities submit annual report of federally-owned property in the their custody
- When no longer needed, report to the feds
- If agency doesn't need it any more, it declares it excess
  - May be able to donate research equipment to educational/research institution
- "Exempt" property: acquired under award and feds decided to give it to entity

35

Equipment

- Title vests in grantee, but cannot encumber the property
- Use until project ends or need for it ends
- States manage equipment under their rules
- Others: when equip is no longer needed, can be used on other federal programs
- For disposition, if FMV is over $5,000 per unit, then treat like real property
- If FMV <$5,000 per unit no accountability

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Supplies

- Title vests with grantee
- If FMV at end of project <$5,000, then no further obligation to the feds

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Intangible property

- Title vests with grantee
- Cannot encumber it without approval from feds
- For disposition, treat like equipment
- Feds have a royalty-free, nonexclusive right to use, and can authorize others
- For research data, FOIA may apply

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Procurement

- States follow their own rules
- All entities must incorporate required contract provisions
- Non-state entities have extra requirements
  - Use their own procedures
  - Have conflict-of-interest rules, including organizational conflicts-of-interest
  - Deal with only responsible contractors
  - Ensure full and open competition
    - No geographical preferences

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Additional rules for non-state agencies

- Simple rules for micro-purchases
  - Usually <$3,500
  - $2,000 if Davis-Bacon applies
- Small purchase procedures
  - For procurements <$150,000
  - But organization must follow its own rules
- Large procurements require formal quotes
- Must have a cost or price analysis of any procurement >$150,000

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Micro-purchases

- Can be as large as $3,000 under the Supercircular
- But most organizations use a much lower ceiling (you should have clear ceiling for your organization)
- No price competition required provided entity decides that price is reasonable

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Small purchase procedures

- Can be as large as $150,000 under the Supercircular
- Most organizations use a ceiling of $25,000 - $50,000
- Your organization should have clear a ceiling
- Should get at least two quotes, but formal written quotes not required

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Procurement by sealed bids

- Bids are publicly solicited
- Firm fixed price contract awarded to
  - Responsible bidder
  - Who offered lowest price
- Need to have clear description of product required
- Bids opened publicly

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Procurement by competitive proposals

- Conditions not appropriate for sealed bids
- RFPs should be publicized and cite all evaluation factors and their relative importance
- RFPs sent to adequate number of firms
- Used for architectural/engineering professional services
- Contract awarded to bidder most advantageous to the program

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Sole source procurements

- Only to be used when one or more factors apply:
  - Item is available from a single source
  - Need for very fast turnaround
  - Feds have approved sole source
  - Competition is deemed inadequate

Warning: Sole source procurements are red flags to auditors and other reviewers!

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Prohibit conflicts of interest

- Conflicts of interest should be clearly defined
- Guidance should also prohibit perceived conflicts of interest
- Explain what steps to take if there is a conflict of interest
- Guidance should be widely promulgated
- Apply to all levels within the organization

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Monitoring

- Pass-through entity must monitor subs
- Frequency of reporting
  - At least annually
  - At most quarterly
- Use OMB approved reporting data
- Promptly report any known problems or favorable events
- Agency can make site visits as warranted

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Differentiate between vendors/ contractors and subrecipients

- Use the proper award instrument
- Impacts the amount of monitoring that is required
- Substance of agreement is more important than the form of the agreement

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Factors indicative of a subrecipient

- Determines eligibility (e.g., of beneficiaries)
- Performance measured against grant objectives
- Responsible for programmatic decision-making
- Required adherence to federal grant rules
- Uses the funds to support its program as distinct from providing goods or services for the benefit of the “pass-through” entity

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Factors indicative of a vendor/contractor

- Provides goods and services in normal course of business
- Provides similar goods/services to other customers
- Operates in a competitive environment
- Goods/services are ancillary to the federal program
- Not subject to federal assistance program rules

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Requirements for pass-through entities

- Provide necessary info to subgrantees
- Impose federal regulations
- Evaluate each applicant for subgrant for risk of noncompliance in order to determine appropriate monitoring

51

Indirect cost rate requirements for pass-through entities

- Accept federally negotiated rate, when applicable
- Negotiate an indirect cost rate using federal cost principles
- Allow a minimal rate of 10% of modified total direct costs for entities that are unable to develop an indirect cost rate
  - Entity cannot have had a negotiated rate in the past
  - Not for some state/local/Indian tribes

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Records retention

- Generally 3 years from filing of financial reports
- For real property and equipment, 3 years after disposition
- Many individual issues — all relating to 3 years
- Keep records if there is litigation, audit issue, etc.

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Access to records

- Agency, its Inspector General and GAO have access to all award-related records
- That requirement should be passed on to subrecipients
- Includes timely and reasonable access to employees
- Access continues as long as records are retained

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Remedies for noncompliance

- Withhold cash payments
- Disallow costs claimed
- Wholly or partly terminate
- Initiate suspension and debarment
- Withhold future awards
- Other remedies that are legally available

55

Termination can be effected by:

- Agency, if grantee fails to perform
- Agency, with consent of grantee
- Grantee can terminate
  - If grantee wants to terminate in part, feds may decide to terminate entire project
- Termination must be in writing
- Obligations after termination are unallowable

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Close-out does not affect

- Feds right to disallow costs
- Obligation to make appropriate refunds
- Continuing responsibilities
  - Audit
  - Property management
  - Records retention

57

Subpart E: Cost Principles

- §200.400 to §200.475
- Grantee is responsible for operating effectively and efficiently
- Grantee must follow the rules
- Accounting practices must be in accordance with the cost principles
- For IHEs, recognize the dual role of students as trainees and research workers
- Feds can provide prior approval for some costs ahead of time

58

To be allowable, costs must:

- Be necessary and reasonable
- Be allocable
- Conform to the cost principles and award
- Be treated consistently
- No double dipping
- Be adequately documented
- Reduced by any applicable credits
- Conform to GAAP

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Reasonableness

- Prudent person rule
- Ordinary and necessary
- Sound business practices
- Arms-length bargaining
- Use of established practices

60

Allocability

- Charges relate to benefits
- All activities are charged a fair share
- Cannot reallocate to avoid restrictions
- But can reallocate if costs are OK under either program

61

Conform to any limitations

- Program laws and regulations
- Specific grant provisions
- Cost principles

62

Consistent treatment

- Like costs in like circumstances are treated consistently
  - Direct vs. indirect
  - Federal vs. nonfederal
  - Budgeted costs vs. unbudgeted costs
- Potential exception on next slide

63

Admin and clerical salaries are normally considered as indirect

- But grantee can claim them as direct if:
  - Services are integral to the project
  - Individuals can be identified to the project
  - The costs are included in the budget, or have been specifically approved
  - The costs are not also recovered as indirect costs

64

Not claimed twice

- All costs can be claimed only once
- They cannot be charged to two grants
- Cannot be charged to one grant and used as cost sharing on another

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Adequate documentation

- The regulations generally do not set forth specific documentation standards
- However, they provide more guidance for salary and wages
- Otherwise, the reasonable person (auditor) must decide
- Contemporaneous documentation is always more credible than documentation prepared after-the-fact

66

Total costs

- Include both direct and indirect
- No one rule for classification
- Must be consistent

Note how frequently consistency is cited

67

Direct costs

- Identified with final cost objective. Examples include:
  - Salaries of persons working on project
  - Travel associated with the project
  - Approved capital expenditures
- Unallowable costs must be allocated indirect costs if they:
  - Include salaries
  - Occupy space
  - Benefit from the indirect costs

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Indirect costs

- Indirect costs are those having a common or joint purpose
- Not readily assignable
- Minor items can be classified as indirect, if treated consistently
- Allocation plan can be simple or complex
- Indirect costs may be limited by law
- The rules contain some special provisions for IHEs and state and local gov'ts.

69

Indirect cost rate requirements

- Accept federally negotiated rate, when applicable
- Negotiate an indirect cost rate using federal cost principles
- Allow a minimal rate of 10% of modified total direct costs for entities that are unable to develop an indirect cost rate
- If agency and entity agree, can extend negotiated indirect cost rates for up to four years

70

Facilities and administrative costs

- Major IHEs and nonprofits must classify their indirect costs as either facilities costs or administrative costs
- Facilities costs:
  - Depreciation on buildings and equipment
  - Operations and maintenance expenses
- Administrative costs
  - General expenses
  - Other indirect costs not included as facilities expenses

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Selected items of cost

- Lists 55 items (alphabetical order)
- Some items relate to just one type of grantee
- If a cost is not in the list, that doesn't mean that it's allowable or that it's unallowable
- In a conflict between the cost principles and the federal award, the award takes precedence
- I will cover items that have changed or that sometimes create problems

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Some costs are almost always unallowable

- Alcoholic beverages
- Uncollectible debts
- Contingency reserves
- Contributions
- Entertainment and employee morale
- Fund raising
- Goods or services for personal use
- Losses on other federal grants
- Use allowances

73

Salaries and wages (Compensation for personal services)

- Salary must be reasonable
- There may be limits on total salary rate
- Reasonable incentive compensation is permissible
- Many special provisions for IHEs

74

Documentation requirements

- Rules are more flexible
- Charges must be supported by:
  - System of internal controls
  - In official records of entity
  - Reflect total compensated activity
  - Include federal and nonfederal activity
  - Comply with entity's accounting policies
- Special, more flexible rules for IHEs

75

Using budget estimates for salary allocations

- Use for interim accounting purposes, if
  - System produces reasonable estimates
  - Timely recording of significant changes
    - Short-term fluctuations can be ignored
  - Internal control system compares actuals with budgets

Cost sharing should be supported the same as direct charges

76

Fringe benefits include time not worked

- Fringe benefits must be based on law, agreement or established policy
- Can use cash basis (charge leave when it is taken)
- Can accrue leave costs

77

Pension plan costs

- Pension accruals
  - Must conform to GAAP
  - Must be funded within 6 months of year end
- “Golden parachutes” are prohibited

78

Legal defense costs

- All related costs are unallowable if:
  - Org. is defending criminal, civil or administrative charges, ***and***
  - Org. loses or agrees with a compromise disposition
- Lots of detailed rules which should be consulted in the event of criminal or civil suits

79

General governmental costs prohibited for state and local governments

- General governmental costs include:
  - Governor, state legislature, judiciary, etc.
  - General public support (e.g., police and fire)
- For Councils of Government and Tribes:
  - CEO direct costs are OK
  - 50% of such costs can be included in indirect cost rate without documentation
- Agency may approve **just the travel costs** of general government employees if they are related to a specific award

80

Idle facilities and idle capacity

- Idle facilities are unused, in excess of current needs
  - Generally unallowable, but OK if needed for workload fluctuations
  - If the need for the facilities has been reduced because of changed circumstances, costs are OK for up to one year
- Reasonable idle capacity is OK

81

Interest

- Generally unallowable
- Building related interest OK:
  - for state and local governments, after 10/1/80
    - For land, after 9/1/95
  - For IHEs, after 9/23/82
  - For nonprofits, 9/29/95
- For all, equipment related interest is OK
- For fiscal years starting after 12/31/15, interest related to acquiring intangible assets is OK

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Lobbying

- Costs to improperly influence federal executive branch employee regarding a grant or regulation are unallowable
- For IHEs and nonprofits:
  - Attempts to influence any election, referendum, federal or state legislation are unallowable
  - OK to factually respond to legislative requests
  - OK to try to reduce costs or otherwise assist federal grant

83

Costs of memberships

- Professional, technical associations and publications are OK
- Civic or community organizations are OK, with approval
- Country clubs or social clubs are unallowable
- Organizations whose primary purpose is lobbying are unallowable

84

Rental costs

- Generally OK
- Only cost of ownership allowed if:
  - Sale and leaseback arrangement, or
  - Less-than-arms-length lease
- If GAAP requires treatment as capital lease
  - No more than maximum allowable if item was purchased at time of lease
  - Interest calculation based on rules in effect at theoretical purchase date

85

Taxes

- OK if legally required to pay
- For state and local governments, taxes are not OK if:
  - They are self-assessed, and
  - They have a disproportionate effect on federal programs

86

Travel

- Generally OK
- Must conform to grantee's policies
- First or business class is unallowable
- If no policy, use federal rules
- Costs limited to commercial rates
- Direct foreign travel must be approved in advance

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Subpart F: Single Audit requirements

- §200.500 to §200.521
- A non-federal entity that expends $750,000 in federal funds in a fiscal year must have a Single Audit or program-specific audit
- No Single Audit required if entity is below the threshold
- Federal funds do not include procurements
- Pass-through entities responsible for adequate review of for-profit subrecipients

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Other audits must build upon the Single Audit

- Single Audit substitutes for other audit requirements
- GAO, OIGs must consider Single Audit and build upon it for their additional audits
- No restriction on GAO and OIGs from conducting audits
  - Feds must pay for them
- 2014 Compliance Supplement will contain a list of available program-specific audit guides

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Auditee responsibilities

- Procure the Single Audit
- Prepare financial statements
- Promptly follow up and correct findings
- Provide the auditor with all necessary access to info
- Prepare schedule of expenditures of federal awards (SEFA)

90

Auditor selection

- Use normal procurement processes
- Objective is to obtain high quality audit
- Must obtain the auditor's peer review report
- Consider experience, availability of staff, etc.
- Try for affirmative action
- Auditor who prepares indirect cost rate proposal for entity that receives over $1 million in indirect costs cannot perform the audit

91

Audit submission and follow-up

- Auditee must prepare schedule of prior findings
- Prepare corrective action plan for current findings
  - Show the status of findings
  - Can drop corrected findings
- Auditee must submit reporting package

92

Federal agency may act as cognizant agency or oversight agency for audits

- Cognizant: auditees receive >$50 million
  - Provide technical audit advice, coordinate audits, etc.
  - Obtain or conduct quality control reviews of selected audits
  - Coordinate resolution of cross-cutting findings
- Otherwise oversight agency
  - May assume the responsibilities of a cognizant agency

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Auditor requirements

- Comply with GAGAS
- Cover the entire entity
- Cover the financial statements and SEFA
- Cover internal control
- Cover compliance
- Follow up on prior findings
- Auditor must complete and sign parts of the Data Collection Form

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Reporting requirements

- Opinion on financial statements and SEFA
- Report on internal control over financial reporting and grant compliance
  - Show scope of testing and results
- Compliance for each major program
- Schedule of findings and questioned costs
- Material weaknesses and significant deficiencies

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Audit findings

- Known or likely questioned costs >$25,000 for major programs
  - Provide info to help judge the prevalence and consequences of the questioned costs
- Known questioned costs >$25,000 for non-major programs
- Explain any qualification of opinion on major programs
- Known or likely fraud
- Sufficient detail for a corrective action plan

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More requirements for audit findings

- Info about the programs
- Criteria and condition
- Statement of cause that can serve as a basis for recommendations
- Possible effect to enable agency or pass-through entity to facilitate prompt corrective action
- How the questioned costs were computed
- Whether the sample was statistically valid

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Major program determination

- Step one is identify the Type A programs (large dollar programs)
- Inclusion of large loan programs should not exclude other programs as Type A
- For most entities, Type A programs are larger of $750,000 or 3% of total federal funds expended

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Step two

- Identify "Type A" programs that are low risk by applying risk factors contained in §200.519 and determining that programs have:
  - Been audited as major in one of the last two years
  - No material weaknesses in internal control
  - An unmodified opinion on compliance
  - Questioned costs of less than 5% of funds expended in the program

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Step three

- Identify "Type B" programs that are "high risk" by applying criteria contained in 200.519 but:
- Limit the number of Type B programs on which to assess risk to ¼ the number of Type A programs and
- Use an approach which provides that different Type B programs are audited as major over time

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Step four

- Determine and audit as major programs:
  - All Type A programs not determined to be low risk
  - All Type B programs determined to be high risk
  - Any additional needed to comply with the "percentage of coverage" rule

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Percentage of Coverage Rule

- Current
  - For normal auditees, 50% of the federal funds expended
  - For low risk auditees, 25% of the federal funds expended
- Future (§200.518(f))
  - For normal auditees, 40% of the federal funds expended
  - For low risk auditees, 20% of the federal funds expended

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Criteria to Be a "Low Risk" Auditee

- Audits completed annually and reporting packages submitted on time
- Unmodified opinions on financial statements and schedule of expenditures of federal awards
- No material weaknesses in internal control
- No doubt about ability to continue as a "going concern"

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Low-risk criteria (cont.)

- No findings in the past two audits related to:
  - Material weakness in internal controls over major programs
  - Modified opinion on major program compliance
  - Known or likely questioned costs exceeding 5% of the total expended in a Type A program

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Changes to the Compliance Supplement

- Proposed guidance contained information on reducing the number of compliance issues to be tested (six instead of fourteen)
- Specific compliance issues are not cited in the "supercircular"
- We had to wait for the 2015 Compliance Supplement

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Two issues have been dropped

- Davis-Bacon
- Real property acquisition and relocation assistance
- Also two areas have been combined:
  - Allowable activities
  - Allowable costs

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Appendices in the Supercircular

- I – Full text of notice of funding opportunity
- II - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
- III - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)
- IV - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

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More appendices

- V - State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans
- VI - Public Assistance Cost Allocation Plans
- VII - States and Local Government and Indian Tribe Indirect Cost Proposals

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Still more appendices

- VII – Nonprofit Organizations Exempted From Subpart E, Cost Principles of Part 200
- IX - Hospital Cost Principles
- X - Data Collection Form (Form SF–SAC)
- XI – Compliance Supplement
- XII - Award Term and Condition for Recipient Integrity and Performance Matters

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An Overview:
Changes Resulting from the Supercircular

History of the Supercircular

Early in 2012, OMB asked the various stakeholders to provide their suggestions to improve and streamline the rules for federal grants. It received hundreds of responses, and early in 2013, OMB issued proposed guidance to change the rules for grants. It received hundreds more responses. On December 26, 2013 OMB published a document frequently referred to as the "Supercircular." That document revises all the general rules for grants: the administrative regulations, the cost principles and the Single Audit requirements.

The new rules became effective on December 26, 2014. All grant fiscal periods starting after that date incorporate the new cost principles and administrative rules. For example, a three-year grant that is renewed each July 1st, would use the new rules for the period awarded effective July 1, 2015. The Single Audit rules will became effective for audits covering fiscal years starting after Christmas 2014.

Changes in the Administrative Rules

In terms of administrative rules, it would it would seem that the most significant change is combining the current two sets of administrative requirements into a single document. However, the changes in that regard are relatively minor. There were two sets of requirements. However, we really had one set of requirements for state agencies and a different set of requirements for all other grantees. The rules for local governments (in OMB Circular A-102) and the rules for nonprofits, institutions of higher education, etc. (in 2 CFR 215) were virtually identical. The differences were very minor and should have been reconciled years ago, but little differences did remain. They have been eliminated in the Supercircular. However, there are still a more relaxed set of rules for state agencies than any other type of grantee.

Changes in Pre-award Requirements

Under the Supercircular, the federal agencies can make fixed-amount awards. Pass-through grantees will also be able to make fixed-amount subawards. As you would expect, the awarding agency should establish performance measures and require performance reporting when making fixed-amount awards. They would obviously not be feasible for grants that have a cost sharing requirement.

Another change in the pre-award requirements is that for discretionary grants, federal agencies must consider the financial risks posed by the grantee. It will be interesting to see how the different federal agencies interpret and implement that requirement.

Changes in Post-award Requirements

There are also a number of changes in the post-award requirements.

We have a couple of significant changes in cost sharing regulations. The Supercircular makes it clear that, for research grants, cost-sharing is not expected, and voluntary committed cost-sharing may not be used in determining which grant proposals to fund. Also related to cost-sharing, the valuation of real property is limited to the lesser of fair market value or <u>book value</u>. That could be a significant difference if the real property has been owned for some time, but in my experience contributions of real property as cost sharing are rare.

Grantees are expected to install internal controls in administering the grants. In the Supercircular, OMB cites both the COSO internal control framework and the GAO internal control standards. I take that as an increased emphasis on internal controls. In related issues, grantees will be required to take prompt measures when noncompliance is identified and to take measures to protect personally identifiable information.

Previously, the administrative rules required grantees to conduct a cost or price analysis in connection with every procurement. The Supercircular requires a price or cost analysis with only those procurements exceeding the small acquisition threshold (set in the Supercircular at $150,000). However, the cost principles still require that all costs be adequately documented. For any procurement of size, I believe that the documentation should include a reasonable analysis of the basis of the price.

The Supercircular emphasizes monitoring of subrecipients. It provides guidelines on differentiating between subgrants and contractors/vendors in the

Administrative Rules section. Previously, those guidelines were just in OMB Circular A-133. Now the rules are contained where they should have been all along, the administrative requirements. The Supercircular also refers to those differences in the audit section. There is a general consensus that the new rules emphasize subgrantee monitoring.

The new rules also alter the landscape on indirect costs. Pass-through grantees must now accept federally approved indirect cost rates, when applicable. Or the pass-through entity can negotiate a rate for its subrecipients based on federal cost principles. For subrecipients that have never had an indirect cost rate, the subrecipient may claim a "de minimis" rate of 10 percent of modified total direct costs. The "de minimis" rate does not have to be supported.

Changes to the Cost Principles

The biggest single change in the cost principles is combining three sets of cost principles into a single document. However, that change is less significant that it might first appear. There are still many specific items of cost that differ by type of entity, thereby maintaining the current rules. In addition, the Supercircular contains three separate appendices that set forth the rules for developing indirect cost rate proposals for state and local governments, for nonprofit organizations, and for institutions of higher education (IHEs).

One advantage of a single set of cost principles is that the general cost principles for all the entities are now worded identically. The general cost principles were intended to be the same for all entities. However, the fact that they were worded differently could be confusing.

I will mention a few changes to the cost principles. The most important may well relate to indirect costs. When the new rules go into effect, entities that have never had a negotiated indirect cost rate will be able to charge a "de minimis" rate of 10% of modified total direct costs indefinitely. That will be a real boon to organizations that do not have the knowledge to develop a valid indirect cost rate proposal. In addition, if the federal agency (or pass-through entity) and the recipient or subrecipient agree, any negotiated indirect cost rate can be extended for up to four years. That, too, will probably be of most value to smaller institutions that find developing indirect cost rates to be a major project.

Use allowances are no longer be available as a substitute for depreciation. Few organizations included use allowances in their indirect rate proposals these days, so eliminating them will not affect many grantees.

One important inconsistency in the cost principles will be corrected. Currently, employee benefits can include "recreational activities," but all entertainment is unallowable. This created difficulty in determining the allowability of, for example, the company picnic because of the contradictory provisions. The cost principles will no longer accept employee morale costs. So the picnic will be clearly unallowable (particularly if beer or wine was served).

Changes in Single Audit Requirements

The biggest change to the Single Audit requirements are changes in the various thresholds. It will take $750,000 in federal expenditures to trigger a single audit as opposed to the previous requirement of $500,000. The threshold for reporting known questioned costs in a finding will increase from $10,000 to $25,000. The thresholds for minimum audit coverage of major programs will decline. For entities that do not qualify as low-risk, the minimum coverage will drop from 50% to 40%. For low-risk entities, the minimum coverage will drop from 25% to 20%.

The auditor has a number of additional requirements regarding reporting audit findings. Auditors will be required to report on any abuse that they noted. GAO defines abuse as "behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary business practice given the facts and circumstances."

In addition, auditors will be required to include a statement of cause in the findings and "a clear logical link to establish the impact or potential impact" of the finding. Currently, auditors just have to provide enough information to enable the agency or pass-through entity to determine the cause and effect. I believe that these changes will require additional effort from Single Auditors in the future.

Auditors will have to state whether the audit sample is statistically valid. This statement will impact whether the test results are projected to the entire universe that was reviewed.

The revised rules provide a schedule that may make it easier for auditors to determine major programs. They also tighten the rules for determination of a low-risk entity. The initial proposal indicated that there would be a significant reduction in the number of compliance issues to be covered in the Single Audit. However, when the 2015 Compliance Supplement was issued, only two compliance issues were dropped:

- Davis-Bacon
- Real property acquisition and relocation assistance

Summary

Obviously, this overview is a very brief summary of the changes. You should be sure to read carefully those sections of the Supercircular that impacts your activities.

Some Useful Web Pages

http://www.eCFR.gov
Code of Federal Regulations
You can obtain all of the federal regulations from this site.

http://www.gao.gov/
U.S. Government Accountability Office
Contains Yellow Book and any proposed revisions as well as the GAO internal control standards.

http://www.whitehouse.gov/omb/circulars/index.html
Office of Management and Budget Circulars
This site includes all of the OMB Circulars, including A-133 and the compliance supplement

http://www.cfda.gov
Catalog of Federal Domestic Assistance
The Catalog lists virtually every federal program and provides a great deal of information about each one.

http://www.auditnet.org/
Audit Net
Contains numerous audit programs and links to other useful web pages.

http://www.ignet.gov
Council of the Inspectors General on Integrity and Efficiency
The website of the federal inspector's general. It contains information about the inspectors general, their reports and their organizations.

http://www.aicpa.org
American Institute of CPAs
The AICPA website.

http://www.theiia.org
Institute of Internal Auditors
The website of the Institute of Internal Auditors.

http://www.usa.gov
U.S. Government Web Portal
Provides access to all federal web site and links to all of the states.

http://www.sam.gov
System for Award Management
Contains much information on grants management, including the GSA List of debarred and suspended contractors

http://www.plainlanguage.gov
Plain Language Action Network
Website providing writing advice.

Notes

Topic

Date Page

A Foundation of Leadership

Hallmarks of effective county elected officials and senior executives

LEADERSHIP COMPETENCIES

Personal Literacy
Trustworthiness
Respect
Responsibility
Fairness
Compassion

Strategy
Strategic planning
Adaptive change
Shared vision
Appreciate possibilities
Future generations

Relationship Dexterity
Coalition building
Facilitate dialogue
Appreciate differences
Manage conflict

Advocacy
Service to community
Value to county
Community needs

KNOWLEDGE COMPETENCIES

Governance
State and local relations
County roles and powers
Finances
Decision-making

Policy
Social and human services
Public safety
Land use
Environmental protection

Administration
Personnel and employee relations
Performance assessment
Customer service
Accountability

Stewardship
Financial and human resources
Meeting management
Communication
Media relations
Crisis management

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