

Federal Education Grants Management Requirement

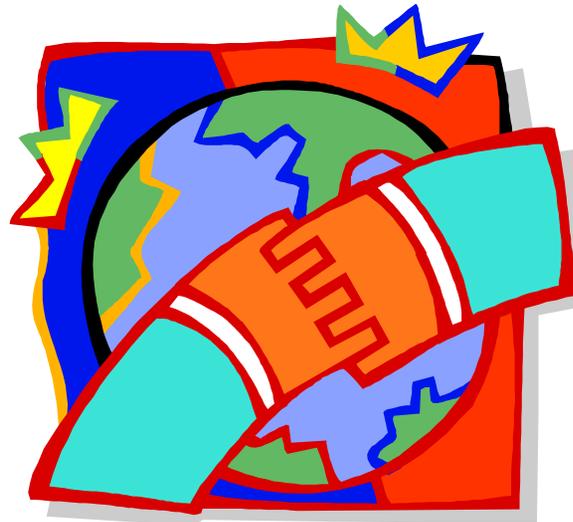


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Agenda

- Overview of statutes, regulations, and guidance that cover federal education grants
- Federal cost principles
- Threshold system requirements for recipients of federal grants
- Cash Management Requirements
- Supplement, not supplant (applies to most federal education programs)
- Monitoring, Audits, and Enforcement

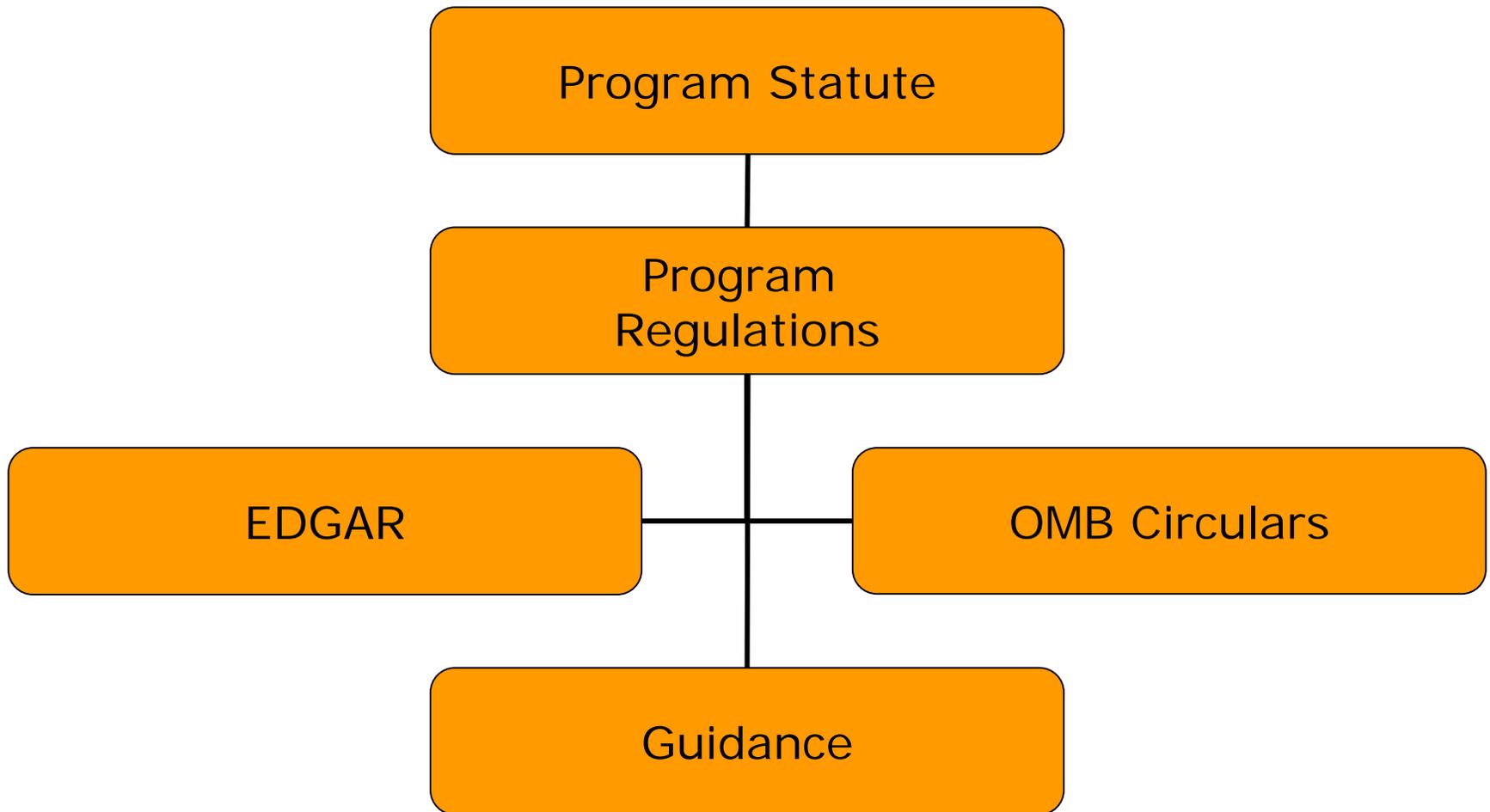
Overview of Statutes, Regulations, and Guidance



Legal Structure

- Statutes
 - Program statutes (NCLB, IDEA, Perkins)
 - General Education Provisions Act (GEPA)
- Regulations
 - Program regulations
 - Education Department General Administrative Regulations (EDGAR)
- OMB Circulars
- Guidance

Legal Structure (cont.)



Where to Find Federal Education Grants Management Requirements

- Program Rules: www.ed.gov
 - Statutes
 - Regulations
 - Guidance
- General Education Provisions Act (GEPA):
http://straylight.law.cornell.edu/uscode/html/uscode20/usc_sup_01_20_10_31.html
- Education Department General Administrative Regulations (EDGAR):
<http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html>

Where to Find Federal Education Grants Management Requirements

- Office of Management & Budget Circulars
 - <http://www.whitehouse.gov/omb/circulars/>
 - OMB Circulars A-21, A-87, A-122 Cost Principles
 - OMB Circular A-133 Single Audit
 - OMB Circular A-133 Compliance Supplement
 - Note – for audits performed after June 30, 2004, must look at 2004 AND 2005 Supplements

Federal Cost Principles



Federal Cost Principles

- A-21 Educational Institutions
- A-87 State, Local & Indian Tribal Governments
- A-122 Non-Profit Organizations
- 48 CFR pt. 31 For-Profit Organizations



Cost Principles: Basic Guidelines

- All Costs Must Be:
 - Necessary
 - Reasonable
 - Allocable
 - Legal under state and local law

Cost Principles: Basic Guidelines

- In addition, all costs must:
 - Conform with federal law & grant terms
 - Consistently treated
 - In accordance with GAAP
 - Not included as match
 - Net of applicable credits
 - Adequately documented

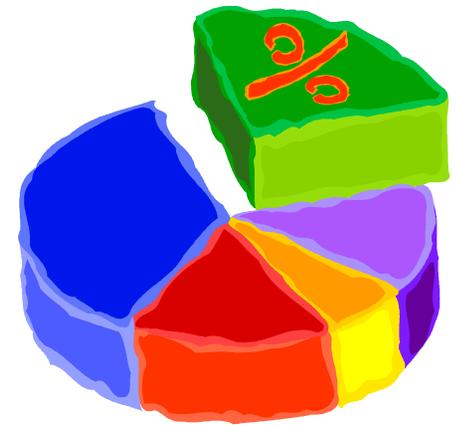
Basic Guidelines (cont.)

- Necessary and Reasonable
 - Must be necessary for the performance or administration of the grant
 - Must follow sound business practices:
 - Arms length bargaining (hint: procurement processes)
 - Follow federal, state and local laws
 - Follow terms of the grant award
 - Fair market prices
 - Act with prudence under the circumstances
 - No significant deviation from established prices

Basic Guidelines (cont.)

□ Allocable

- Can only charge in proportion to the value received by the program
- Example: Organization purchases a computer to use 50% in the Title IV program and 50% in a state program – can only charge half the cost to Title IV



□ Legal under state and local law

- If cannot do under state law, cannot pay with federal funds

Basic Guidelines (cont.)

- Conform with federal law & *grant terms*
 - Example: Match Requirements

- Consistently treated
 - Must follow uniform policies that apply equally to federal and non-federal activities
 - Cannot assign cost as direct cost if indirect under state programs

Basic Guidelines (cont.)

- In accordance with GAAP
- Not included as match
- Net of applicable credits
 - Examples: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments

Basic Guidelines (cont.)

- Adequately documented
 - Amount of funds under grant
 - How the funds are used
 - Total cost of the project
 - Share of costs provided by other sources
 - Records that show compliance
 - Records that show performance
 - Other records to facilitate an effective audit

Cost Principles: Selected Items of Cost

- In 2004, OMB made revisions to A-21, A-87 and A-122
- OMB's goals were to:
 - Simplify the cost principles
 - Make the descriptions of similar cost items consistent
 - Reduce the possibility of misinterpretation

A-87, Attachment B– Selected Items of Costs

- **43 specific costs detailed**
- **Listed in alphabetical order**

Cost Principles: Selected Items of Cost

- Advertising/PR
 - Generally not allowable, except as specified in Attachment B
- Alcohol
 - Not allowable
- Audit Costs
 - Allowable to the extent provided under A-133
 - Other audit costs are allowable if included in a cost allocation plan

Selected Item of Cost: Compensation for Personnel Services

Explanation:

- This cost item includes compensation paid to teachers, counselors, administrators, coordinators, and other personnel
- **Time Distribution requirements contained in this item**

Selected Item of Cost: Compensation for Personnel Services

- Salaries and Wages
 - Allowable if proper time distribution records
- Fringe Benefits
 - Allowable if: (1) established written leave policies; (2) cost equitably allocated to all related activities; and (3) accounting basis consistently followed
- Severance Pay/Terminal Leave
 - Normal: Allowable as indirect cost
 - Abnormal: Allowable if approved by cognizant federal agency

Selected Item of Cost: Compensation for Personnel Services: **Time Distribution**

- If federal funds are used for salaries “time distribution records” must be kept
- Must demonstrate that employees paid with federal funds actually worked on the specific federal program

Compensation for Personnel Services: Time Distribution

- Type of documentation depends on how many “cost objectives” the employee worked on
- These cost objectives must be connected to the employee’s salary source
- What is a cost objective?
 - A specific grant award, *or other category of costs*, that requires the grantee to track specific cost information

Compensation for Personnel Services: Time Distribution

- For example:
 - Federal Program:
 - Title I, Part A
 - Reading First
 - IDEA
 - Federal Program Cost Objective:
 - Title I, Part A School Improvement
 - Title I, Part A Program
 - Reading First Administration
 - IDEA Administration

Compensation for Personnel Services: Time Distribution

- If an employee works on a single cost objective:
 - Semi-Annual Certification
 - Signed by employee or supervisor every six months
 - Example: "I hereby certify that for the period January 1, 2005 through June 30, 2005 one-hundred percent (100%) of my time and effort was spent on Title III Administration."

Compensation for Personnel Services: Time Distribution

- If an employee works on multiple cost objectives:
 - Personnel Activity Report (PAR)
 - Signed by employee
 - Example: "I hereby certify that for the period January 1, 2005 through January 31, 2005 50% of my time and effort was spent on Title I School Improvement and 50% on Consolidated Administration."

Compensation for Personnel Services: Time Distribution

- PAR must be:
 - After the fact
 - Account for total activity
 - Signed by employee
 - Prepared at least monthly and coincide with one or more pay periods



Compensation for Personnel Services: Time Distribution

- Time increments reported on PARs should be sufficient to recognize:
 - Number of different activities performed
 - The dynamics of these responsibilities

Time Distribution: Flexibility

- Payroll certification in lieu of semi-annual certification
 1. Single cost objective
 2. Supervisor cannot assign multiple functions
 3. Employee coded to dedicated function not benefiting multiple functions

Time Distribution: Flexibility

- Substitute systems
 - Must be approved by NYSED
 - Can include:
 - Random moment sampling
 - Case counts
 - Other quantifiable measures of employee effort

Time Distribution: Flexibility

- Budget estimates as interim accounting tool
 - Estimates must produce reasonable approximations of the activity actually performed
 - Quarterly comparison of estimates to actual costs
 - If difference is less than 10% - annual adjustment
 - If difference is more than 10% - quarterly adjustment

Time Distribution: Flexibility

- Schoolwide program schools
 - 2004 Compliance Supplement – “dedicated function”
 - Semi-annual certification
 - Specific payroll coding
 - Still disagreement at USDE over what is required



Selected Items of Cost (cont.)

- Defense and Prosecution of Criminal and Civil Proceedings, and Claims
 - Legal expenses required in the administration of federal programs are allowable
 - Legal expenses for “prosecution of claims” against the federal government are not allowable



Selected Items of Cost (cont.)

- Employee Morale, Health and Welfare
 - Health or first aid clinics, recreational activities, employee counseling services are allowable
- Entertainment
 - Amusement, diversion, and social activities are not allowable
- Fines and Penalties
 - Not allowable

Selected Items of Cost (cont.)

- Lobbying
 - Costs of activities that are meant to influence the grant process are unallowable
- Maintenance, Operations & Repairs
 - Utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs & alterations are allowable if:
 1. Keep property in efficient operating condition
 2. Do not add to permanent value or appreciably prolong property's intended life

Select Items of Cost (cont.)

- Memberships, Subscriptions and Professional Activities
 - Meetings and conference where the primary purpose is dissemination of technical information are allowable
 - Includes costs of meals, transportation, facility rental, and speakers' fees



Selected Items of Cost (cont.)

- Training
 - Training for employee development is allowable
- Travel Costs
 - Travel costs, including transportation, lodging, subsistence, and related items, when traveling on business are allowable with certain restrictions

Threshold System Requirements for Recipients of Federal Grants



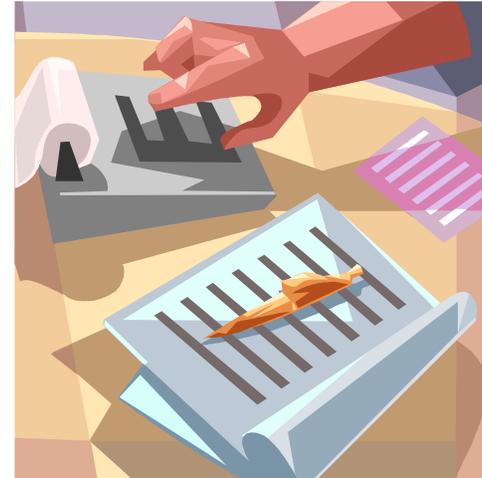
EDGAR Overview

- Education Department General Administrative Regulations: 34 CFR pts. 74-99
 - Part 74: Admin. of Grants to Institutions of Higher Ed, Hospitals, and other Nonprofit Organizations
 - Part 75: Direct Grant Programs
 - Part 76: State-Administered Programs
 - Part 77: Definitions
 - Part 80: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

Financial Management

34 CFR 80.20 & 34 CFR 74.21

- Fiscal control and accounting procedures must be sufficient to:
 - Prepare reports
 - Trace funds to a level of expenditure adequate to show funds spent properly



FMS System

Financial management systems must meet the following standards:

- Financial reporting
- Accounting records
- Internal controls
- Budget controls
- Allowable costs
- Source documentation
- Cash management

Internal Controls

34 CFR 80.20(b)(3) & 34 CFR 74.21(b)(3)

- ❑ Internal controls are tools to help program and financial managers achieve results and safeguard the integrity of their programs
- ❑ Internal control, in the broadest sense, includes the plan of organization, methods and procedures adopted by management to meet its goals
- ❑ Includes processes for planning, organizing, directing, controlling, and reporting on agency operations

Objectives of Internal Control

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations
- Safeguarding assets

Components of Internal Control

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



Components of Internal Control (cont.)

- Control Environment
 - Organizational structure
 - Culture

- Risk Assessment
 - Internal
 - External

Components of Internal Control (cont.)

□ Control Activities

- Proper segregation of duties
- Physical controls over assets
- Proper authorization
- Appropriate documentation

Components of Internal Control (cont.)

- Information and Communication
 - Updated guidance from central oversight agencies
 - Communication between program and financial staff

- Monitoring
 - Periodic reviews
 - Program assessments
 - Reconciliations/Comparisons of data

Control Over Reporting

- Effective internal control over financial reporting provides reasonable assurance that misstatements, losses, or noncompliance with applicable laws and regulations, material in relation to financial reports, would be prevented or detected
- Impact of Sarbanes-Oxley
- OIG review of data quality

Matching/Cost Sharing

34 CFR 80.24 & 34 CFR 74.23

- Costs must be allowable under the grant
- Includes:
 - Grantee expenditures (cash contribution)
 - Donations (in-kind contribution)
- Must be verifiable from records

Program Income

34 CFR 80.25 & 34 CFR 74.24

Income directly generated by a grant supported activity or earned only as a result of the grant agreement, includes income from:

- ❑ Fees for services performed
- ❑ Use of property acquired under grant
- ❑ Sale of commodities or items fabricated under a grant agreement
- ❑ Payments of principal and interest on loans made with grant funds

Program Income - definition (cont.)

- Does not generally include
 - Interest on grant funds
 - Rebates
 - Credits
 - Discounts
 - Refunds
 - Taxes, special assessments, etc.
 - Income earned after the award period

Program Income – cont.

Royalties

Generally, revenue from:

- Royalties
- License fees
- Patents

Is not considered program income unless specifically identified in the grant agreement

Use of Program Income

- ❑ Deducted from total allowable costs and used for allowable expenses
- ❑ Added to the total grant award and used for allowable expenses
- ❑ Used to meet cost sharing or matching requirements

Changes to Approved Budget

34 CFR 80.30 & 34 CFR 74.25

- Must report deviations from budget and program plans
- Must request prior approval:
 - Change in scope or objective
 - Change in key personnel
 - Authority to bring in 3rd party contractor
 - Certain budget transfers



EDGAR Part 80.36 Procurement & 74.40-74.48

- States-80.36(a). State can follow own policies and procedure it uses for procurements for non-Federal funds. Must ensure that contracts includes clauses required by Federal statutes or executive orders and regulations.

EDGAR Part 80.36 Procurement

(continued)

- Procurement Standards 80.36(b). Other grantees can use own procurement procedures that reflect State and local laws IF they conform to these standards (highlights)
 - Contract administration system (contractors perform in accord with terms, conditions and specifications of contracts)
 - Written code of standards governing employees that administer contracts
 - Procedures that provide for review of proposed procurements to avoid purchase of unnecessary or duplicative items
 - Awards only to responsible contractors that have ability to perform
 - Records to detail the significant history of the procurement
 - Dispute procedures

EDGAR Part 80.36 Procurement

(continued)

- Competition 80.36(c). All procurement transactions must be conducted with full and open competition. Certain issues considered to be restrictive of competition include (highlights)
 - Placing unreasonable requirements on firms to do business
 - Requiring unnecessary experience or bonding
 - Noncompetitive pricing practices
 - Noncompetitive awards to consultants on retainer contracts
 - Organizational conflicts of interest
 - Specifying brand name instead of an equal product
 - Any arbitrary action

EDGAR Part 80.36 Procurement (continued)

- Competition 80.36(c) continued (highlights)
 - Must conduct procurements in manner that prohibits the use of statutory or administrative in-State or local geographical preferences in the evaluation of bids or proposals except where Federal statute encourages
 - Written selection procedures, ensuring
 - Clear and accurate description of technical requirements, identification of all factors to be used in evaluating bids
 - All prequalified lists used to acquire goods or services include enough qualified sources to ensure competition

EDGAR Part 80.36 Procurement

(continued)

- Methods of procurement and rules (small purchase, sealed bids, competitive proposals, etc.)
- Noncompetitive proposals defined (only in specific circumstances – single source, emergency)
- Still must perform price analysis for noncompetitive proposal

EDGAR Part 80.36 Procurement

(continued-- highlights)

- Contract cost and price
 - Must conduct price analysis for every procurement, including contract modifications (must make independent estimates before receiving bids or proposals)
- Awarding agency review (must have procurement documents available for review)
- Contract provisions. Contracts must contain certain elements, including:
 - Remedies instances of breach, sanctions, penalties
 - Termination for cause and convenience
 - Compliance with federal statutes and executive orders
 - Reporting requirements
 - Patent rights
 - Copyrights
 - Access by federal agency, Comptroller General of US to records of contractor
 - Retention of records for 3 years after final payment

Procurement Records

- Suspension and Debarment
 - <http://www.epls.gov/>
- Retain records to document:
 - Rationale for the method of procurement
 - Selection of contract type
 - Contractor selection or rejection
 - Basis for contract price

Equipment

34 CFR 80.32 & 34 CFR 74.34

- Title vests in the grantee
- May use for other projects as long as no interference
- Must ensure adequate maintenance



Equipment (cont.)

- Property acquired under the grant must be recorded in an inventory management system
 - Property records (description, serial number or other ID, title info, acquisition date, cost, percent of Federal participation, location, use and condition, and ultimate disposition)
 - Physical inventory (at least every two years)
 - Control system to prevent loss, damage, theft (all must be investigated)

Disposition

- When no longer needed:
 - Property may be used for other activities currently or previously supported with federal funds
- Otherwise, must dispose according to regulations
 - 34 CFR 80.32(e)

Copyrights

34 CFR 80.34 & 34 CFR 74.36

- Grantee may copyright work that was developed for or purchased under federal grant
- Federal government may reproduce, publish, or otherwise use the copyright in any work developed under the grant
- Federal government does not need to pay royalties

Record Retention

34 CFR 80.42 & 34 CFR 74.53

- Must retain records that show:
 - Amount of funds under by grant or subgrant
 - How the state or subgrantee uses funds
 - Total cost
 - Share of costs provided from other sources
 - Compliance with program requirements
 - Other records to facilitate and audit
- Federal: 3 years
- Statute of limitations: 5 years
- State: "ED 1 Records Retention and Disposition Schedule"

Cash Management Requirements



Overview

- Payment Process
 - Obligation
 - Liquidation
 - Drawdown
 - Payment
- Controlling Grant Funds
 - Financial Management
 - Internal Controls
 - Record Keeping/Reporting

Period of Availability

34 CFR 80.23 & 34 CFR 74.28

- Tydings Amendment
 - Does not apply to all grants
- Funds are available to state for 27 months:
 - 15 months under the grant award
(July 1, 2005 – September 30, 2006)
 - Plus 12 months
(October 1, 2006 – September 30, 2007)
- State may limit period of availability!
 - Check award notice

Definition of Obligation Under Federal Law

Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken

Liquidations

- Federal regulations: Must liquidate all obligations within 90 days after the end of the period of availability
 - Example:
 - Period of availability: July 1 – September 30
 - Liquidation period ends: December 30
- ED may extend this deadline
- State may limit the period!
 - Check award notice

Lapsed Funds

- To avoid lapsing:
 - Obligate oldest funds first
 - Maintain clear accounting records
 - Integrate financial management systems (e.g., procurement system linked to accounting system)
- Lapsed funds as a risk factor

Supplement, Not Supplant



Supplement Not Supplant

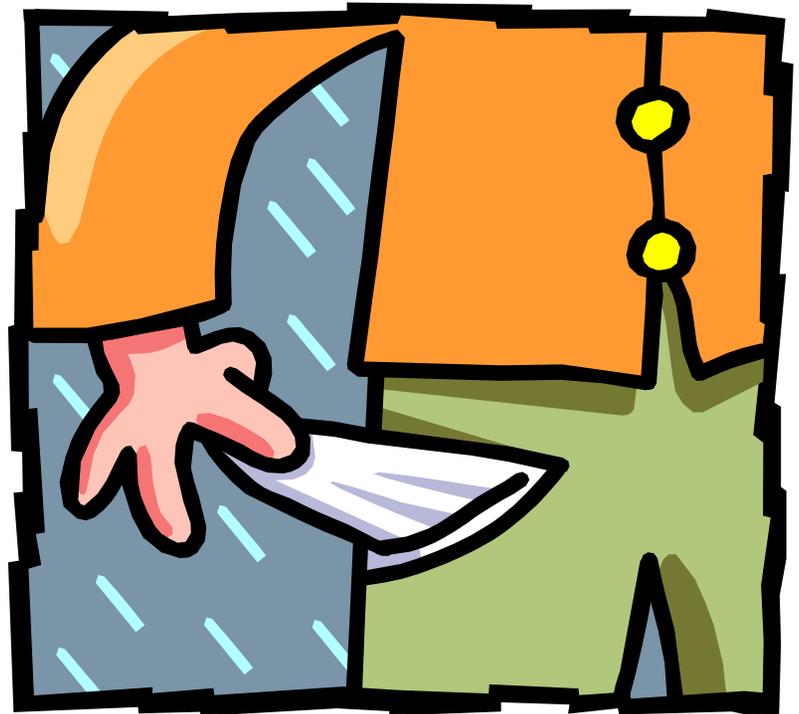
- ❑ Cannot use federal funds to pay for services, staff, programs, or materials that would otherwise be paid with state or local funds
- ❑ Always ask: “What would have happened in the absence of federal funds?”

Supplement Not Supplant (cont.)

- A-133 Compliance Supplement presumes supplanting in 3 situations:
 1. Used federal funds to provide services the SEA or LEA is required to make available under other federal, state or local laws
 2. Used federal funds to provide services the SEA or LEA provided with state or local funds in the prior year
 3. Used Title I, Part A or Migrant Education Program (MEP) funds to provide the same services to Title I or MEP students that the LEA or SEA provides with state or local funds to nonparticipating students (NOTE: likely broader than these programs)

Supplement Not Supplant (cont.)

- Presumption may be rebutted:
 - If SEA or LEA demonstrates it would not have provided the services with state or local funds if the federal funds were not available



Supplement Not Supplant (cont.)

- SEA or LEA may use federal funds for state mandated activities only if state and local funds are not available
 - NCLB Title V, Part A Guidance:
<http://www.ed.gov/programs/innovative/titlevguidance2002.pdf>
 - NCLB Title II, Part A Guidance:
<http://www.ed.gov/programs/teacherqual/guidance.pdf>
 - Letter to Oklahoma:
<http://www.ed.gov/policy/elsec/guid/secletter/030306.html>

Supplement Not Supplant (cont.)

- To rebut presumption show:
 - Fiscal or programmatic documentation to confirm that, in the absence of federal funds, would have eliminated staff/services in question
 - State or local legislative action
 - Budget histories and information

Supplement Not Supplant (cont.)

- Special Rule for Title I:
 - Exclude any supplemental state or local funds spent in any school for a program meeting the intents and purposes of Title I, Part A
 - Section 1120A
- Indirect Costs
 - No SNS → Unrestricted rate
 - SNS → Restricted rate

Supplement Not Supplant (cont.)

- Be careful! Different programs have different provisions
 - Title I – only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds
 - IDEA – shall be used to supplement State, local, and other Federal funds and not to supplant such funds

Supplement Not Supplant (cont.)

- Reading First has a supplement not supplant provision
 - Added in an appropriations bill
- Do not trust the CFDA

Monitoring, Audits and Enforcement



Monitoring



New Focus by ED: Pressure on
States

Sub-Recipient Monitoring – Required by Statute and Regulations

- ❑ Single Audit Act. Pass through entities must monitor a subrecipient's use of federal funds through site visits, limited scope audits, or other means

(1996 Amendments to the Single Audit Act
& 2003 Revisions 31 U.S.C. §7502(f)(2)(B))

- ❑ EDGAR 80.40(a) *“Grantees must monitor grant and subgrant supported activities to assure compliance with ... federal requirements and that performance goals are ... achieved.”*

Monitoring – New Focus by ED

Student Achievement and School Accountability (SASA) Program Monitoring Plan for Formula Grants

“Overarching Requirement” -

“States have mechanisms in place sufficient to ensure that states are able to collect and review critical implementation data ... to ensure effective (and fully compliant) programs under NCLB.”

Monitoring

- State-administered programs
 - SEA responsible for ensuring lawful expenditures
 - SEA must effectuate audit resolution



Monitoring (cont.)

- Grantees are responsible for managing the day-to-day operations for grant and subgrant activities
- Grantees must monitor grant and subgrant activities to ensure:
 - Compliance with federal requirements
 - Performance goals are being achieved
- Monitoring must cover each program, function, or activity

Monitoring (cont.)

- **OMB expects pass-through entities to consider various risk factors in developing subrecipient monitoring procedures**
 - relative size and complexity of award, prior experience

The Single Audit Process



- ❑ Single Audit Act
- ❑ OMB Circular A-133
- ❑ A-133 Compliance Supplement

Single Audits

- Required if expend more than \$500K
- Pressure on ED to ensure high-quality single audits
- Pressure on ED to monitor single audit findings more carefully

Single Audits

- ED OIG is leading national project to measure quality of single audits – working with other federal agencies
- Quality control review

OMB Circular A-133: Single Audit

- Recipients that expend \$500,000 or more in federal funds must arrange for an annual audit of their use of those funds
- Conducted by external, independent auditors
 - Reviews the recipient's operations and expenditures of federal funds and prepares report
- Recipient must address any findings, prepare corrective action plans

OMB Circular A-133 (cont.)

□ Compliance areas:

- Activities allowed or unallowed
- Allowable costs/cost principles
- Cash management
- Davis-Bacon Act
- Eligibility
- Equipment and real property management
- Matching, level of effort, earmarking
- Period of availability of federal funds
- Procurement and suspension and debarment
- Program income
- Real property acquisition and relocation assistance
- Reporting
- Subrecipient monitoring

OMB Circular A-133 (cont.)

- Requirements of subgrantee:
 - Hire the auditor
 - Facilitate the audit
 - Corrective Action
 - Submit the audit package to the Federal Audit Clearinghouse

OMB Circular A-133 (cont.)

- Single audit as a monitoring tool?
 - Pass-through entities must monitor subrecipients' use of federal funds through site visits, limited scope audits, or other means
 - Desk review not sufficient
 - Reliance on single audits is not sufficient
 - Questions re: the reliability of recent single audits
 - ED OIG participating in government-wide task force to address the quality of non-federal audits

OMB Circular A-133 (cont.)

- Limited Scope Audits
 - Address one or more of the following types of compliance requirements:
 - Allowable costs/cost principles
 - Eligibility
 - Matching/MOE
 - Earmarking
 - Reporting

OMB Circular A-133 Compliance Supplement



- ❑ Tool that auditors use
- ❑ Organize documents for audit using A-133 Compliance Supplement
- ❑ Specific audit tests included
- ❑ Even if not required to have a Single Audit because under \$500K threshold, Compliance Supplement is a useful compliance “checklist” for grant recipients

OMB Circular A-133

Compliance Supplement

- New 2005 “update” released – must be used with 2004 Compliance Supplement
- Updates in certain areas: particular importance– time distribution and Reading First

ENFORCEMENT

How is non-compliance discovered?

- Single Audits
- OIG Audits
- Program Monitoring
- Disclosure/Reporting

USDE Enforcement Tools:

GEPA

EDGAR

Program-specific enforcement
provisions

GEPA:

General Education Provisions Act

- Part D – Enforcement (Sections 451-460)
- Establishes:
 - Office of Administrative Law Judges (OALJ)
 - Rules for Recovery of Funds, Measure of Recovery, Remedies, Withholding, Compliance Agreements, Judicial Review, and Use of Recovered Funds

GEPA - continued

- Recovery of Funds: to return funds that were not allowable, not accounted for properly
 - PDD/PDL: may be based on audit report, investigative report, monitoring report, or other evidence
 - Once PDD/PDL issues, statute of limitations is tolled. 60 days to submit application for review.
 - Establishes appeal and procedural rules

GEPA - continued

- Measure of Recovery:
 - Harm to the Federal Interest (proportionate recovery)
 - Mitigating circumstances
 - relied on written guidance
 - 90-day letter

GEPA - continued

- Remedies for Existing Violations:
 - Withhold payments
 - Cease and desist order
 - Compliance Agreement
 - “any other action” authorized by law

- Regardless, ED can always seek to recover funds for misexpenditures

GEPA– State Enforcement (for state administered programs)

- GEPA gives States authority to:
 - Withhold approval of funds
 - Suspend payments
 - Withhold payments

- EDGAR 76.770
 - SEA may perform other administrative responsibilities the State has determined are necessary to compliance with applicable federal requirements

EDGAR

- Sec. 80.12
- Authority for designating grantee or subgrantee as “high-risk”
- State may designate LEA as “high-risk” under “awarding agency” authority

High-Risk Grantees

- 1) History of unsatisfactory performance
- 2) Not financially stable
- 3) Management system does not meet standards
- 4) Has not conformed to terms of previous awards
- 5) Is otherwise not responsible -- can place special conditions or restrictions

High-Risk Grantees: Special Conditions

- Special conditions may include:
 - Payment on reimbursement basis
 - Withholding authority to proceed until acceptable performance
 - Requiring more detailed financial reports
 - Additional project monitoring
 - Requiring additional technical or managerial assistance
 - Establishing additional prior approvals

Special Conditions

- If special conditions, must notify in writing:
 - Nature of the special conditions
 - Reasons for imposing them
 - Corrective actions that must be taken before removed and the time allowed for corrective actions
 - Method of requesting reconsideration

Questions?

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