



Implementing the Uniform Grant Guidance



Implementing the Uniform Grant Guidance

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Today's Topics

- Overview and update on the Uniform Grant Guidance (UG) and important dates
- Subrecipient monitoring and risk assessment
- Procurement issues
- New ethical requirements
- New audit requirements

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Important Dates

- December 26, 2013 – Uniform Grant Guidance was issued by the Office of Management and Budget (OMB)
- December 19, 2014 – OMB and 28 federal agencies issued a joint interim final rule providing implementation guidance
- Compliance is mandatory for federal agencies only

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Subrecipient Overview

- More stringent requirements for subrecipient monitoring
- Impacts DHS and county relationships
- Impacts county relationships with their subrecipients.

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Examples of Expanded Monitoring

- Requiring a consistent practice to distinguish a subrecipient from a contractor
- Identifying or negotiating an appropriate indirect cost rate at the time of award
- Ensuring "flow-down" of new requirements
- Evaluating subrecipient risk
- Imposing remedies for noncompliance

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Subrecipient Monitoring Risk Assessment

Monitoring plan must ensure that the subaward:

- Is used only for authorized purposes
- Is in compliance with federal statutes, regulations and subaward terms and conditions
- Achieves its performance goals
- Considers risk of subrecipient noncompliance

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Subrecipient Monitoring Risk Assessment 

Risk assessment is based on:

- Prior experience with similar subawards
- Previous audit results
- Significant changes in personnel or systems
- Extent and results of federal awarding agency monitoring


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Subrecipient Monitoring Monitoring Plan 

Minimum monitoring activities must include:

- Reviewing financials and programmatic reports
- Conducting on-site reviews and audits based on risk assessment
- Conducting follow-up reviews to ensure timely completion of corrective actions required to address deficiencies
- Issuing a management decision for audit findings
- Verifying that each subrecipient receives audits

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Subrecipient Monitoring Additional Considerations 


Based on monitoring activities, subrecipients should:

- Provide training and technical assistance
- Determine if on-site reviews necessitate adjustments to own records
- Consider taking enforcement action against noncompliant subrecipients

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**Subrecipient Monitoring
Additional Enforcement Action**




If non-compliance cannot be remedied, consider more severe action, such as:

- Applying temporary cash withholds
- Disallowing all or part of the cost of the activity
- Suspending or terminating the subaward
- Recommending the federal agency initiate suspension or debarment proceedings
- Withhold future awards
- Pursue other legal remedies

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**Subrecipient Monitoring
General Best Practices**




Subrecipient monitoring should include:

- Informing the subrecipient of pertinent information
- Ensuring that subrecipients are receiving audits when necessary
- Reviewing financial and programmatic reports
 - Reconcile budgeted to actual expenses
 - Perform an on-site visit to review financial and programmatic records and observe operations
 - Perform desk reviews for allowable use of funds

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**Subrecipient Monitoring
General Best Practices**




- Establishing a tracking system to ensure timely submission of required reporting
- Having a second party within your organization review the adequacy of subrecipient monitoring for all programs
- Documenting everything!

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**Procurement Issues
Subrecipient or Contractor?**




Subrecipient

- Determines eligibility
- Has performance objectives
- Has responsibility for programmatic decisions

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**Procurement Issues
Subrecipient or Contractor?**




Contractor

- Provides goods and services as a normal part of business
- Provides similar goods and services to many purchasers
- Operates in a competitive environment
- Goods and services are ancillary to the operation of the federal program
- Is not subject to compliance requirements

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**Procurement Issues
Subrecipient or Contractor?**




- Must make case-by-case determinations
- If determined to be a subrecipient, there are additional requirements to be met:
 - Information to be provided
 - Requirements imposed
 - Indirect cost rate or de minimis rate
 - Access to records
 - Monitoring, including audits

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Procurement Issues
Subrecipient or Contractor?




Some key differences

- New guidance applies to grants, not contractor relationships
- Audits for contractors (purchase of service) is still required by DHS statutes
- Cost guidelines do not apply to contractors
- Can still require adherence through contract language

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Procurement Issues
Best Practices



All contract actions should be maintained in the contract file (solicitations, evaluations, award decisions)


- Keep documents from unsuccessful offerors

Keep all modifications within the original scope

Document everything!

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New Ethical Requirements
Creating an Ethical Infrastructure




Organizations should consider:

- Top level attention
 - Policy directives, letters to staff
- Policy and procedure changes
 - Policy requirements, agreement provisions
- Education
 - Communication, training
- Ongoing examination, oversight and enforcement
 - Compliance/Ethics officer, internal audit

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New Ethical Requirements
Creating an Ethical Infrastructure



- No one-size fits all approach
- What an organization does depends on
 - Organizational structure
 - Size of the organization
 - Mission and philosophy for attaining it
- Thoughtful, reasonable approach
 - Consider documenting major decisions
 - Remain open and flexible

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Conflicts of Interest



- Agencies can still establish their own conflict of interest policies
- Non-federal agencies must report any COI to an awarding agency
 - Agencies must assess COIs as part of their risk assessments
- Non-federal agencies must report organizational conflicts of interest

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Mandatory Disclosure



- § 200.113 requires organizations to disclose in a timely manner "all violations of criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award."
- Does not apply to civil acts
- Failure to report can result in suspension or debarment

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Failure to Address Ethical Issues

Failure to implement processes to account for the new rules could result in:

- Disallowance of funds
- Suspension of grant
- Grant termination
- Civil penalties
- Criminal penalties
- Administrative action (suspension, debarment)


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New Audit Requirements

- Threshold requiring a Single Audit has been raised from \$500,000 to \$750,000 in federal funding
- Threshold applies to subrecipients, not contractors
- Also does not apply to for-profit agencies
- Can still require audits and set compliance standards by contract


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Other Audit Issues

- The Department is revamping the Audit Guide
- Objectives are to simplify it, make it more concise, and eliminate confusion
- Target date for release is October 1, 2015

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Implementation Advice

- Look at policies and procedures and what you are currently doing
- Identify areas that may need improvement
 - Procurement, subrecipient monitoring, ethics
- Design and develop required policies and procedures
- Bring your agency into compliance

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Questions?

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