

Fall Forum 2021
Stimulus Funds and UGG, and You and Me, So Happy (Back) Together

Time and Effort Requirements and Flexibilities

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Time and Effort

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Documentation (200.403(g)) and Time and Effort (200.430(i))


- The Requirements:** All costs must be necessary, reasonable, allocable and **adequately documented**. Compensation for employees must be supported with time and effort documentation.
- The Challenges:**
 - Funding is received late – used to reimburse staff that did not keep T&E records*
 - Accounting of unanticipated funding stream; differing budget/award periods*
 - Access to document management systems*
 - Internal controls; procedures; approvals*

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Time & Effort - Common Findings



Organization pays salaries based on budget



Organization does not have a control system, for time & effort



Effort certifications are not accurate



Failure to reconcile actual effort to funding source


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Lessons Learned

- Documentation and verified data is important!
 - *Time and effort documentation*
 - *Alternative documentation/procedures?*
 - *Accounting for coronavirus funds as federal awards with separate cost objectives*




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Why care?

- The Scripps Research Institute (2020)
 - \$10 million DOJ settlement
- Harvard University (2020)
 - \$1.3 million DOJ settlement
- University of North Texas (2018)
 - \$13 million DOJ settlement



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False Claims Act

"Any person who..."

"...knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval..."

"...is liable to the U.S. Government for a civil penalty of not less than \$5,000, plus 3 times the amount of damages the government sustains because of the act of that person."

31 U.S.C. § 3729



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What rules apply?

<p>The "Old" Rules</p> <ul style="list-style-type: none"> • OMB Circular A-87 • OMB Circular A-122 • OMB Circular A-21 	<p>New Time and Effort Rules</p> <ul style="list-style-type: none"> • Uniform Grants Guidance • 2 CFR 200.430(i)
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Who? 200.430G(1) & (4)

- Time and effort must be collected for all employees (not contractors) whose salaries are:
 - *Paid in whole or in part with federal funds ; and*
 - *Used to meet a match/cost share requirement.*
- Includes:
 - *Full time and part time employees;*
 - *Federal stipends that are considered salary expenses;*



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Pop Quiz!

- If an administrator spends 10% of their time on a federal cost objective, and 90% on non-federal cost objective, do they have to keep time & effort documentation?

a) Yes
b) No
c) Who cares

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Does "X" Employee have to keep time and effort records?

Is she/he an employee?		
Yes	No	I don't know
Is she/he paid with federal funds?		No T&E Required
Yes	No	Ask HR
T&E Required	Salary used for match?	
No	Yes	
No T&E Required	T&E Required	

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Documenting Personnel Expenses

Time and effort records MUST:

- Be supported by a **system of internal controls** which provides **reasonable assurance** charges are **accurate, allowable and allocable**;
- Be incorporated into official records;
- Reasonably reflect **total activity** for which employee is compensated;
- Encompass all activities (federal and non-federal);
- Comply with established accounting policies and practices; and
- Support distribution among specific activities or **cost objectives**.

2 CFR 200.430(i)(1)

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1. Supported by a System of Internal Controls

- What are the best controls?
 - Anything that will go towards the veracity and accuracy of documentation supporting salaries
- Verifiable documentation
 - Signatures (not required but a good control)
 - Electronic signatures are allowable!
 - Documentation from person with first-hand knowledge
- T&E Policies & Procedures 200.430(a)



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Budget Estimates 200.430(i)(1)(viii)

- Budget estimates alone do not qualify as support for charges to Federal awards but may be used for interim accounting purposes if:
 - Produces reasonable approximations
 - Significant changes to the corresponding work activity are identified in a timely manner
 - Internal controls in place to review after-the-fact interim charges based on budget estimates



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Reconciliation 200.430(i)(1)(viii)(C)

- All necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.
- Cannot overcharge the federal program!

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2. Incorporated Into Official Records

- No federal standard
- However, YOUR non-federal entity maintains documentation, time distribution records MUST conform
- For subrecipients, may have specific requirements from pass-through



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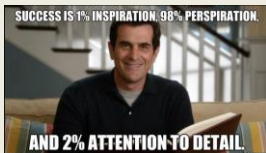


3. Reasonably Reflect Total Activity

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4. Encompass ALL Activities

All 100% of effort must be recorded, regardless of federal vs. non-federal time.



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It's accrual world sometimes...

5. Comply With Established Accounting Policies and Practices

- Salary expenses, tracking and reconciliation should all follow the entity's standard accounting practices.
- Anomalies are red flags to auditors.

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6. Track Time By Cost Objective

Cost Objective 200.1

- Program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired ...
- Examples: set-asides, mandatory spending caps, etc.

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How do we allocate costs? 200.405

- Any cost allocable to a particular Federal award **may not** be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons.

↳ =Cost Shifting!

- But, still can shift costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal award.

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What do we do when a cost benefits two or more projects?

If you can determine this without undue effort or cost

Cost should be allocated to the projects based on proportional benefit.

↓

If proportions cannot be determined, then costs may be allocated or transferred to benefitted projects on any reasonable documented basis.

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Compliance 200.430(i)(2)

- For records which meet the standards, the non-federal entity will not be required to provide additional support or documentation for the work performed.
 - DOL regulations for Fair Labor Standards Act must still be met (i.e., charges must be supported by records indicating the total number of hours worked each day).*

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Noncompliance

Findings!!


- Repayment of Unallowable Costs!
- ED may require personnel activity reports (PARs), including prescribed certifications or equivalent documentation that support the records as required in this section (200.430(i)(8)).



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Can the Prior OMB Circular Rules Still Be Used?


Yes, assuming you had a compliant system!

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If using old circular standards...



Do not cite to the old OMB Circulars



Show how your current process meets the UGG requirements.

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**Altering Prior Processes
Old Circular A-87 Rule**

Semi-Annual Certifications	Personnel Activity Report (PAR)
If an employee works on a single cost objective :	If an employee works on multiple cost objectives :
➤ After the fact	➤ After the fact
➤ Account for total activity	➤ Account for total activity
➤ Signed by employee <u>or</u> supervisor Or no signature?	➤ Signed by the employee or supervisor? Or no signature?
➤ Every six months (at least twice a year) Annually??	➤ Prepared at least monthly and coincides with one or more pay periods Quarterly??

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Altering Prior Processes Old Circular A-122 Rule

Personnel Activity Reports

- Professional and nonprofessional staff keep monthly records **Quarterly? Annually?**
- Signed by employee or responsible supervisory official with first-hand knowledge **Or no signature?**
- Must reflect total activity
- At least monthly and coincide with one or more pay periods **Quarterly? Annually?**

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Altering Prior Processes Old Circular A-21 Rules

Plan Confirmation	After-the-fact Activity Report	Multiple Confirmation Records
<ul style="list-style-type: none"> • Based on budgeted, planned, or assigned work activity • Updated to reflect any significant changes in work distribution • At least annually, a statement will be signed by the employee, principal investigator, or responsible official(s) 	<ul style="list-style-type: none"> • At least every 6 months for professional and professional staff Annually?? • Monthly for all other staff Quarterly? Annually? 	<ul style="list-style-type: none"> • Most Flexibility • Signed report at least once every 6 months Annually?? Not Signed?

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Substitute Systems 200.430(i)(5)

- Must be approved by cognizant agency for indirect cost
- No longer applies to nonprofits
- May include:
 - *Random moment sampling*
 - *"Rolling" time studies*
 - *Case counts*
 - *Other quantifiable measures of work performed*
- Example: The Department of Education permitted time and effort reporting for employees whose salaries are supported by multiple cost objectives, but who work on a predetermined schedule.

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Blanket Certification

- Supervisor/Employee has firsthand knowledge of work performed by several employees.
- He/she used a single certification listing all employees and the time period covered.
- Time period covered can be any range as appropriate given the grant (at least once per fiscal year).

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Electronic Submissions/Approvals

Types of Electronic Submissions Include:

- Online or electronic form submission where employee logs in and completes their time using a "check the box" system
- Email submissions from employee
- Electronic timesheets
- MUST have internal controls in place (passwords, records, etc.)

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Roll Up Time and Effort Tracking

Tracking Supervisors, Clerical, and Support Staff

- This was permissible under A-87 (with permission as a substitute system).
- Time spent by a supervisor on purely supervisory activities may be allocated based on the average time allocations of the supervised employees.

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Alternative Proposals 200.430(i)(6)

- Cognizant agencies for indirect costs are encouraged to accept alternative proposals
 - *Alternative to the Part 200 standards*
 - *Based on outcomes and milestones for program performance*

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Tracking effort during closures, etc.?

- Follow Your Policies and Procedures!!!!
 - *New forms?*
 - *Electronic or online formats?*
 - *Removal or changes to signatory requirements?*
 - *Blanket Certifications?*
- Allocability:
 - *Actual effort*
 - *Allocate using prior, representative period*



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Emergency Considerations

- When do/did emergency procures take effect, when do they end? How was staff notified?
- Were/are staff expected to work from home? How will they be notified?
- Are there different processes for full-time versus hourly staff?
- Different processes for long term v. short term closures?
- What documentation is required or accepted?
- Is a supervisory review required?
- What happens if job duties change?
- What type of reconciliation process takes place?

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COVID Time and Effort Requirements


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ED Fact Sheet (April 8, 2020)

May a grantee or subgrantee continue to pay the compensation of an employee paid with grant funds from ED during the period the employee is unable to work because his or her organization is closed due to novel Coronavirus Disease 2019 (COVID-19)?



- Yes. Generally, a grantee or subgrantee may continue to charge the compensation
 - *Consistent with the organization's policies and procedures re: emergencies*
 - The grantee or subgrantee may amend or create a policy in order to put emergency contingencies in place for Federal and non-Federal similarly situated employees.

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ED Fact Sheet (April 8, 2020) (cont.)

- However, an employee who is being paid with Department grant funds while the program grant activities are closed in whole or in part due to the COVID-19 pandemic may not also be paid for the time during which the program is closed by the organization or another organization for working on other activities that are not closed down.
- Maintain appropriate records and cost documentation.
- At the same time, recipients should consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant.


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Education Stabilization Fund (ESF)

- **\$30.9 billion in funding for U.S. Department of Education**
 - Secretary's Reservation Section 18001 - approx. \$308 Million
 - Governor's Emergency Education Relief Fund (GEER) Section 18002 - approx. \$3B
 - Elementary and Secondary Education Relief Fund (ESSER) Section 18003 - approx. \$13.5B
 - Higher Education Emergency Relief Fund (HEERF) Section 18004 - approx. \$14B



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Compliance Supplement Addendum (2021)

- Addresses CARES Act funding and related compliance Requirements.
 - Activities Allowed or Unallowed
 - Allowable Costs/Cost Principles**
 - Addresses time and effort requirements
 - Cash Management
 - Equipment / Real Property Management
 - Matching, Level of Effort, Earmarking
 - Reporting

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What about Time and Effort?

- **"[A]uditors should note that SEAs, LEAs, IHEs, and other subrecipients will not need to maintain time distribution records." – 2020 Compliance Supp.**
 - 2 CFR 200.430(i) applies to ESSER/GEER funds, but notes that there are "very few situations" in which this would apply
- "[A]uditors should note that SEAs, LEAs, IHEs, and other subrecipients must maintain time distribution records for all employees including when an individual employee is splitting their time between activities that are allowable and unallowable under all ESF programs." - 2021 Comp. Supp.

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Questions?

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