



Ensuring Compliant Policies and Procedures

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Virtual Spring Forum 2022
Planning for Uninterrupted Crises

Brustein & Manasevit, PLLC
Planning for Uninterrupted Crises



Question 1

Understanding state and federal requirements is an important step towards ensuring compliant policies and procedures?

- A. True
- B. False



What are the required policies and procedures?



Required Policies and Procedures

Written Cash Management Procedure - 200.302(b)(6) and 200.305

Written Allowability Procedures - 200.302(b)(7)

Written Conflicts of Interest Policy - 200.318(c)

Written Procurement Procedures - 200.318(a) and 200.319(d)

Written Method for Conducting Technical Evaluations 200.320(b)(2)(ii)

Written Travel Policy - 200.475(a)

Procedures for Managing Equipment - 200.313(d)

Employee Benefits - 200.431

Time & Effort - 200.430(a)
2019 Cost Allocation Guide



Suggested Policies and Procedures

Record
Retention

Audit
Resolution

Subrecipient
Monitoring

Program
Specific



Purpose of Policies and Procedures

BECAUSE IT'S REQUIRED!

Also...

- Internal Controls
- Staff Changes and Transitions
- Avoid Audit & Monitoring Findings



Available Resources

- Uniform Grant Guidance
- Federal Agency Regulations
- Authorizing Statute
- Program Regulations
- OMB/Agency Flexibilities
- Program Guidance
- State and Agency Rules, Regulations, Policies and Procedures



Question 2

Which of the policies does the Uniform Guidance require grantees to have in writing?

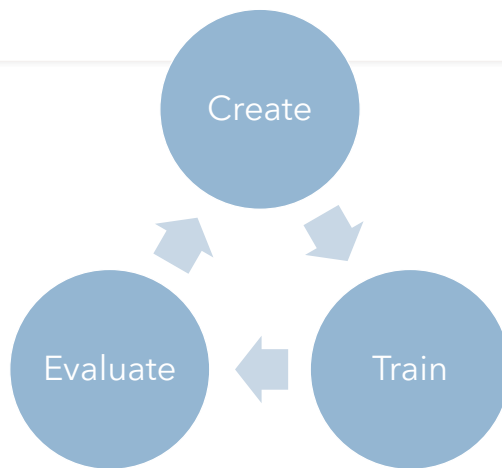
- A. Conflict of interest
- B. Procurement
- C. Allowability
- D. Cash management
- E. All of the above



How to update policies and procedures?



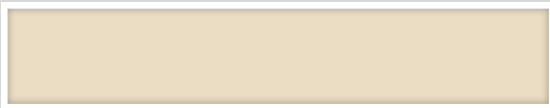
The Process





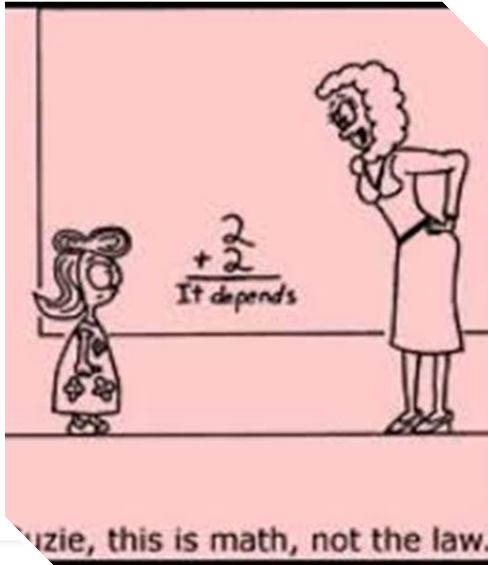
The Process

- 🎯 Set the goal
- 👥 Create a team
- 📅 Plan the table of contents
- 👤 Assign responsibility
- ✓ Establish timeline



The Process

- Review existing policies and procedures
- Develop questions
- Schedule interviews with relevant staff
- Gather information on actual practices
- Draft policies and procedures
- Review internally with appropriate staff
- Revise
- Formally adopt and implement



How Long Will (Should) It Take?

- Updating or Starting from scratch?
 - Key: Set deadlines for specific actions

Pro Tip: Schedule review and adoptions with your organization's governing body, if applicable



Question 3

Which of the following authorities is relevant to review for compliance when creating policies and procedures?

- A. Federal program guidance and regulations
- B. Uniform Grant Guidance
- C. Authorizing statute
- D. State agency rules, regulations, and guidance
- E. All of the above



Suggested Table of Contents

1. Organization, Structure, and Function
2. Grant Application Process
3. Financial Management System
4. Allowability
 - Time and Effort Documentation
 - Travel, etc.
5. Procurement
6. Inventory/Property Management
7. Record Keeping/Record Retention
8. Monitoring and Audit Resolution
9. Programmatic Requirements
10. Emergency Policies and Procedures



Grant Application Process



Required approvals and authorizations to apply for competitive grants



Decisions regarding what grants to apply for



Determining organizational capacity to run a compliant program



Budget, match, indirect costs



Financial Management Procedures

Overview of financial management and accounting system

Budget control, amendments

Maintaining accounting records


Journal voucher process


Cash management, interest remittance and timely spending


Spending funds, determining allowability





Allowability Procedures (200.403)


 Determining necessary, reasonable, and allocable

 Consistent with policies and procedures

 Direct vs. indirect costs

 Cost sharing and match

 Adequate documentation

 Incurred during approved budget period (NEW)



Time and Effort Documentation



Semi-annual certifications?



Personnel Activity Reports (PARs)?



Cost Objectives



Reconciliations



HR Policies



Employee Benefits



Cost Allocation Guide for
State and Local Governments



U.S. DEPARTMENT OF EDUCATION

Indirect Cost Division
Office of Grants Administration
Office of Finance and Operations

September 2019

ED's Cost Allocation Guide (Sept 2019)

- "Department grantees that do not adhere to these parameters in documenting personnel expenses charged to federal grants could face questioned costs in audit findings"
- ***"Written policies and procedures are essential to implementing an effective time reporting system."***



ED's Cost Allocation Guide (cont.)

Time and Effort Policies and Procedures:

1. Completion of time and attendance reporting;
2. Approval cycle that is required;
3. Processing of personnel charges to federal awards; and
4. Internal review process that will be established to ensure effective internal control over the award.

ESSENTIAL



Question 4

Signatures are a good internal control for ensuring time and effort documents get reviewed.

- A. True
- B. False



ED's Cost Allocation Guide (cont.)



“The information should be of sufficient detail to permit an understanding of how the system will operate from the point the time [is] worked to the point the time is recorded in the accounting records and charged to federal awards.”



ED Fact Sheet OMB UGG Adopted Flexibilities

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, may continue to charge the compensation
- Consistent with the organization's policies and procedures re: emergencies
- May amend or create a policy in order to put emergency contingencies in place for Federal and non-Federal similarly situated employees.
- Maintain appropriate records and cost documentation.





ED Fact Sheet OMB UGG Adopted Flexibilities (cont.)

What updates to P&P are needed?

- Were employees paid during closure?
 - Which ones?
 - How were they paid?
 - How long?
 - What were job expectations during closure?
- Were cancellation fees charged to federal awards?
 - What documentation was required?
 - Were employees reimbursed out of pocket costs?, etc.



Travel Policies (200.475)



Does your agency require documentation that participation of an individual in a conference is necessary for the program?



Do you charge travel on actual costs or use a per diem rate?



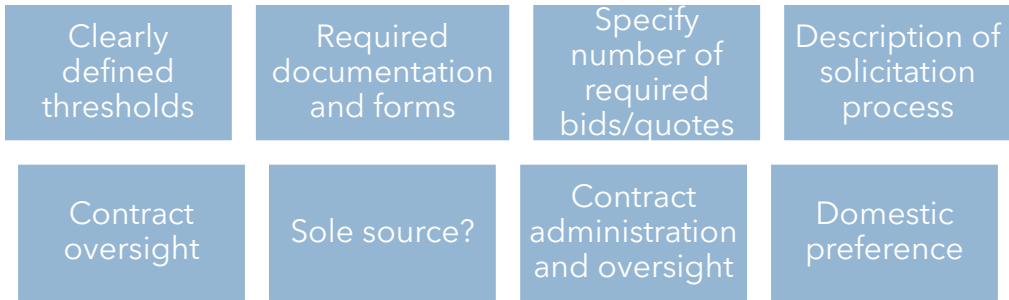
Are there written travel reimbursement requirements?



Do you cover dependent care costs above and beyond?



Procurement (200.317 - 200.327)



ED Fact Sheet on Contracted Services Not Performed



- **Can grant funds be used to cover the cost of approved contracted services that were not performed by a contractor because of the COVID-19 pandemic?**
- Yes, in some limited circumstances, grant funds may be used to cover the costs of contracted services that were cancelled or otherwise not performed due to the COVID-19 pandemic if the contractor was ready and able to perform such services at the time.



ED Fact Sheet on Contracted Services Not Performed (cont.)

1. Check on alternative arrangements first:
 - Alternative ways to provide those services to carry out the intent and purpose of contracts.
 - May require modification of the contract.
2. Steps if services cannot be provided in an alternative manner:
 - a) Recover refundable and nonrefundable costs paid in advance;
 - b) Invoke emergency or "act of God" or "force majeure"
 - c) If no compromise can be negotiated, may charge the costs of cancelling the contract.



ED Fact Sheet on Contracted Services Not Performed

What updates to P&P are needed?

- Were contracts changed due to school closures?
 - Who reviewed the agreements? How were changes made to contracts?
 - Were approvals required for changes or modifications?
- Were contracts cancelled?
 - Were advance payments recovered? How was that attempted/documentated?
 - How were "Act of God" "Force Majeure" clauses invoked?
 - Were approvals required for changes, modifications and/or cancellations?
 - What funds were charged for cancellation fees?



Conflicts of Interest (200.318(c)(1))

How do you define a conflict of interest?

Gratuities Definition?

How are employees made aware of policy?

Mandatory Disclosure Process

Recusal Process?

Monitoring?

Consequences of Violations?



Question 5

Travel policies must be in writing, otherwise grantees must follow the federal requirements on travel.

- A. True
- B. False



Inventory Management

Property
Classifications

Computing
Devices

Inventory
Procedure

Loss, Damage
or Theft

Disposition



ED Fact Sheet: Repurposing Federal Equipment

Pre-COVID

- Equipment must be used in the program for which it was originally acquired. Shared use allowed, so long as it does not interfere. 2 CFR 200.313.
- Both equipment and supplies must be reasonable, necessary and allocable to the federal awards

COVID FAQs

- "For temporary use, grantees and subgrantees may repurpose federally purchased equipment and supplies that are not currently in use to carry out a Department grant program to meet the general education needs of teachers, related service providers, and other educational personnel during the national emergency caused by COVID-19."



ED Fact Sheet on Repurposing Federal Equipment (cont.)

- NFEs must mark the items as being repurposed, and include the following documentation:
 - (1) Description and itemization of items
 - (2) Source/amount of federal funds involved
 - (3) Where the equipment/supplies are assigned for use during the emergency
 - (4) Date the equipment or non-consumed supplies are returned for federal purposes
- What if items are lost, stolen?
 - Must replace equipment and **non-consumable** supplies with nonfederal funds



ED Fact Sheet on Repurposing Federal Equipment (cont.)

What updates to P&P are needed?

- Were equipment or supplies repurposed?
 - How was it documented?
 - How was required documentation maintained?
 - What office is responsible for returned items?
 - How are lost, stolen, damaged items tracked and accounted for and replaced?



Record Keeping

UGG Only requires records be kept for 3 years

But...

- Agency rules (U.S. Dept. of Ed has 5-year statute of limitations (GEPA 81.31(c))
- False Claims Act (6-year statute of limitations)
- State policy
- Local policy



How to Maintain Documentation?

- When original records are electronic and cannot be altered, there is no need to create and retain paper copies. (UGG Section **200.336** (new citation))
- When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
 - Are subject to periodic quality control reviews;
 - Provide reasonable safeguards against alteration; and
 - Remain readable.



Documentation Issues

- Are records kept by school, grant, fiscal year?
- Do you backup documentation?
 - Where and how often?
- What happens when staff retire or voluntarily leave?
- What happens when staff are fired?
- What happens when a school closes?
- Staff keep documentation at home?



Monitoring and Audit Resolution

Monitoring of Agency

Monitoring of Subrecipients (200.332)

Risk-Based Factors (200.206)

Onsite Reviews

Desk Reviews

Self-Assessments (200.329(a))

Single Audits (Subpart F)

OIG Audits



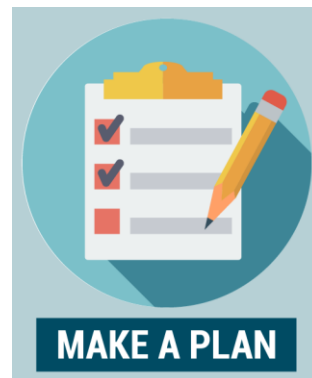
Program Specific Requirements

- Supplement, not Supplant
- Maintenance of Effort
- Specific Funding Caps/Minimums
- Excess Costs
- Comparability
- Program Eligibility
- Rank and Serving Requirements, etc.



Emergency Policies and Procedures

- What is process for addressing emergency situations?
- Changes to:
 - Compensation / benefits procedures
 - Time and effort procedures
 - Travel reimbursements
 - Allowability procedures
 - Inventory management procedures, etc.





Questions?



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**November 30 –
December 2, 2022**

Cosmopolitan Hotel

Clark County, NV

