



# Federal Grant Compliance Issues

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# What is Compliance?

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- Compliance means meeting obligations associated with accepting government support
- Compliance demonstrates stewardship of public funds
- Compliance is a commitment



# What is a Compliance Program?

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- A compliance program is designed to prevent and detect issues with laws as well as contract and grant provisions
- A compliance program teaches and encourages employees to conform to ethical and legal standards
- A compliance program is an organized and ongoing effort amongst financial and program staff



# Systems of Controls to Assure

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- Sound scientific and administrative judgments
- Adherence with the applicable laws, regulations and grant requirements
- Prudent management



# Elements of a Compliance Program

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- Written standards of conduct, policies and procedures
- Designated compliance officer and compliance committee to develop, operate, and monitor the compliance program
- Effective education and training programs
- Effective communication between compliance officer and employees to receive complaints



# Elements of a Compliance Program

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- Audits and evaluations to identify problems and monitor compliance
- Appropriate disciplinary action when necessary
- Prompt investigations of alleged offences, prompt response to detected offenses; separation of investigation and adjudication
- Clear definition of roles and responsibilities



# Government Grants – Sources of Compliance Requirements

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- OMB Cir. A-110 (2 CFR Part 215), Uniform Administrative Requirements for Grants and Agreements
- OMB Cir. A-122 (2 CFR Part 230), Cost Principles for Non-Profit Organizations
- OMB Cir. A-133, Audits of States, Local Governments, and Nonprofit Organizations
- Statutes and Regulations that Establish Specific Grant Programs (*e.g.*, American Reinvestment and Recovery Act)
- Virginia Specifications for for Audits of Counties, Cities and Towns (Auditor of Public Accounts)
- Agency-specific Grants regulations and policies



# Federal Grant Compliance – Key Points

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- By accepting a federal grant the recipient agrees to comply with the applicable Federal requirements and to the prudent management of all expenditure and actions affecting the award
- Every submission (e.g., Grant application, performance and financial reports, periodic certifications) is a statement to a government official
- Every request for payment is viewed as a certification that the awardee is complying with all material requirements and terms
- Only **Actual Authority** will normally bind the government – beware of “guidance” from unauthorized government representatives



# Consequences of Noncompliance

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- Special oversight/review status
- Administrative sanctions
  - Reduction in payments
  - Termination of grant
- Suspension or debarment
- Corrective action plans
- Damage to the institution's reputation
- Risk of fines and penalties imposed by oversight agencies



# Most frequent adverse audit findings

## (National Science Foundation Study)

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- Policies and procedures inadequate or absent: 24%
- Lack of source documentation to support costs: 18%
- Inadequate system to track, manage, or account for costs/assets: 14%
- Unallowable costs: 7%
- Lack of proper approval, certification, or authorization: 6%
- Lack of subrecipient monitoring: 6%
- Inadequate or absent project or technical report: 6%
- Reconciliations inadequate or not performed: 4%
- Inadequate or absent financial report or proposal: 4%
- Costs claimed > amounts or rates allowed by award provisions or Federal regulations: 4%
- Lack of segregation of duties: 4%



# Common Sources of Compliance Problems

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- Overly ambitious objectives in grant application
- Failing to ensure that subrecipient and subcontractor agreements include all required terms
- Failing to ensure that required reports are accurate and submitted on time
- Failing to obtain required Agency approvals of changes in grant program
- Failing to timely report problems affecting program or financial performance



# Grant Compliance – Risk Areas

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- Adequate program documentation
- Travel documentation
- Cost-sharing
- Records retention
- Separate financial administration for each award
- Violations of institutional conflict of interest rules
- Subgrantee monitoring
- Residual funds – accounting and disposition



# Grant Compliance – Strategies

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- Organizational Policies and Procedures
  - Accounting/Purchasing/Code of Conduct policies tailored to Grant requirements and Organization
  - Training for Key Managers and Grant
- Management Personnel
  - Grant Closeout and Records Retention
- Subawards and Subcontracts
  - Flow-down required and desired Requirements
  - Actively manage and monitor performance
- Regular Review of Above Items



# Current Compliance Issues

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- Subrecipient monitoring
- ARRA requirements
- Internal control issues
- Time and effort reporting



# Subrecipient Monitoring

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- Advise subrecipients of requirements imposed on them by Federal laws, regulations, and provisions of contracts or grant agreements and any supplemental requirements imposed by the pass-through entity
- Monitor subrecipients' activities as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.
- Ensure that subrecipients expending \$500,000 or more in Federal awards have met the audit requirements of Circular A-133



# Subrecipient vs Contractor

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- A Subrecipient
  - determines who is eligible to receive what federal financial assistance
  - has its performance measured against whether the objectives of the federal program are met
  - has responsibility for programmatic decision making
  - has responsibility for adherence to applicable federal program compliance requirements
  - uses the federal programs to carry out the program of the organization as compared to providing goods or services for a program of the pass-through entity



# Subrecipient vs Contractor

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- A Contractor
  - provides the goods and services within normal business operations
  - provides similar goods or services to many different purchasers
  - operates in a competitive environment
  - provides goods or services that are ancillary to operations of the federal program
  - is not subject to the compliance requirements of the federal program



# ARRA Requirements

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- Audit Risk Considerations
  - Funding decreases/fully expended
    - Increased risk due to possibility that program or organizational responsibilities are not being completed
      - Understaffing
      - Work not fully redistributed



# ARRA Requirements

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- Audit Risk Considerations.
  - Major program determination
    - Due to inherent risk, programs with ARRA funds would not qualify as low risk Type A programs
    - Even de minimum amount of ARRA expenditures would not support identifying the program as low risk
  - Data Collection Form
    - Recovery Act funds should be listed separately from other types of funds in the SEFA
    - Recovery Act funds should listed on a separate row under Item 9 on page 3 of the Form SF-SAC



# Internal Control Issues

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- Lack of segregation of duties
- Inadequate supervision and review
- Insufficient training
- Safeguarding of assets



# Time and Effort Reporting

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- OMB A-87 Guidelines
  - Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official.
  - Where employees work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.



# Time and Effort Reporting

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- OMB A-87 Guidelines
  - Where employees work on multiple activities or cost objectives, a distribution of their salaries will be supported by personnel activity reports (or equivalent) unless a statistical sampling system or other substitute system has been approved by the cognizant Federal agency.
  - Personnel activity reports or equivalent documentation must meet the following standards:
    - They must reflect an after the fact distribution of the actual activity of each employee
    - They must account for the total activity for which each employee is compensated
    - They must be prepared at least monthly and must coincide with one or more pay periods
    - They must be signed by the employee



# Time and Effort Reporting

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- Supervisor review
- Actual vs. budget
- Handling “overtime” for salaried employees
- Substitute systems for allocating salaries



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# Resources

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- [www.aicpa.org](http://www.aicpa.org) AICPA
- [www.aicpa.org/GAQC](http://www.aicpa.org/GAQC) Governmental Audit Quality Center
- [www.cfda.gov](http://www.cfda.gov) Catalog of Federal Domestic Assistance
- [www.fasb.org](http://www.fasb.org) Financial Accounting Standards Board
- [www.gao.gov](http://www.gao.gov) Government Accountability Office
- [www.gasb.org](http://www.gasb.org) Governmental Accounting Standards Board
- [www.whitehouse.gov/omb/](http://www.whitehouse.gov/omb/) Office of Management and Budget



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