

# The Impact of OMB's Uniform Guidance "Omni Circular" on Your Organization



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# About CliftonLarsonAllen

- A professional services firm with three distinct business lines
  - Accounting and Consulting
  - Outsourcing
  - Wealth Advisory
- 3,600 employees
- Offices coast to coast
- Nonprofit group serves 6,000 clients across the country



# Speaker Introductions

- **Rebecca Field**

Rebecca has nine years of public accounting experience and works with a variety of nonprofit organizations. Rebecca specializes in single audits and the related regulations and requirements.

- **Chris Stanz**

Chris has over twenty years of experience working exclusively with nonprofit organizations, and she have extensive experience with single audits. Chris also serves as a firm wide assurance resource for this industry where she oversees compliance with professional standards, provides technical assistance, and assists with training curriculum.

# Learning Objectives

- At the end of this session you will...
- Understand the basic background and overview of the new Uniform Guidance
- Understand the effective dates
- Understand the key changes within the Uniform Guidance to previous Guidance in the following areas:
  - Pre-Award Requirements
  - Post-Award Requirements
  - Audit Requirements
- Have an opportunity to ask questions

# Background

- Executive Order 13520 on reducing improper payments and eliminating waste in Federal programs and Presidential memorandum on promoting administrative flexibility
- OMB Advance Notice – Spring of 2012
- Proposed guidance issued February 1, 2013
  - Was available to comment through June 2, 2013
- Final Guidance issued December 26, 2013



# Uniform Guidance

- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – referred to as the “Omni Circular” or “Super Circular”
- Consolidated and streamlines eight previous federal regulations into comprehensive guidance codified at 2 CFR Part 200 (Subparts A – F)

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# Uniform Guidance

- Previous Guidance:
  - A-21, A-87, A-122 Cost Circulars
  - A-133 Single Audit Guidance
  - A-89 Catalog of Federal Domestic Assistance
  - A-102, A-110 Uniform Administrative Requirements
  - A-50 Audit Followup
  
- New Guidance:
  - Subpart A – Acronyms and Definitions
  - Subpart B – General Provisions
  - Subpart C - Pre Federal Award Requirements
  - Subpart D – Post Federal Award Requirements
  - Subpart E – Cost Principles
  - Subpart F – Audit Requirements

# Uniform Guidance

- Objectives of the new Guidance
  1. Eliminate duplication and conflicting guidance
  2. Focus on performance over compliance for accountability
  3. Encourage efficient use of IT and shared services
  4. Provide for consistent and transparent treatment of costs
  5. Limit allowable costs to make best use of federal funds
  6. Set standard business processes using data definitions
  7. Encourage non-federal entities to have family-friendly policies
  8. Strengthen oversight
  9. Target audit requirements on risk of waste, fraud, and abuse

# Effective Dates

- New Guidance took effect on December 26, 2013
- Federal agencies –
  - six months to submit draft of implementing regulations to OMB
  - requirements must be implemented and effective Dec 26, 2014
- Non-federal entities –
  - Administrative requirements and cost principles apply to new awards and to additional funding to existing awards made after December 26, 2014
  - Existing federal awards will continue to be governed by the terms and conditions of the federal award

# Effective Dates

- Subpart F, Audit Requirements, will apply to audits of the fiscal years of non-federal entities that begin on or after December 26, 2014.
  - Fiscal year end 12/31– effective for December 31, 2015 audit
  - Fiscal year end 6/30 – effective for June 30, 2016 audit
- Early implementation is not allowed

# Pre-Award Requirements

# Grant Awarding Process

- Public notice for grants through CFDA and must include 7 data points
  1. program description
  2. purpose
  3. goals and measurement
  4. projected total amount of funds available
  5. anticipated source of funds
  6. general eligibility requirements
  7. applicability of single audit requirements
  
- Merit-Based review of Proposals
  - Described in corresponding funding opportunity

# Grant Awarding Process

- Risk analysis of potential grantees
  - Framework in place to determine eligibility and risks of applicants and described in funding opportunity
  - Risk factors include:
    - financial stability,
    - quality of management systems,
    - performance history
    - audit findings
    - applicants' effectiveness in implementing statutory and regulatory requirements.
  
- Standardization of information
  - Federal awards must include 15 uniform data sets including timing and scope, expected performance and outcomes



# Fixed-Price Awards

- Cannot be more than Simplified Acquisition Threshold (currently \$150,000)
- Funder provides specific level of support without regard to actual costs
  - Award amount negotiated using cost principles or other pricing information
  - Can be an option either by government or pass-through entity
- Accountability based on performance and results
  - No government review of actual costs

# Fixed-Price Awards

- At end of project, non-Federal entity must provide written assurance that project was completed or level of effort expended
- Cannot be used if there is mandatory cost sharing/match associated with the funding
- Can only be used if adequate cost or unit pricing data to ensure that no profit will be realized by the non-Federal entity
- Subawards require prior written approval from Federal awards agency

# Administrative Requirements

# Integrity Rules

- Mandatory disclosure — disclose all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award.
  - Failure can result in suspension and/or debarment
- Conflict of interest — Non-federal entities must maintain conflict of interest policies as well as written policies on organizational conflict of interest to protect the integrity of procurements under federal awards and sub-awards.

# Internal Controls

- Requirements are highlighted in Uniform Guidance as extremely important
- Moved from Audit Requirement in A-133 to Post Federal Award Requirements Subpart D in Uniform Guidance
- Organizations must establish and maintain effective internal controls over federal awards to provide reasonable assurance that awards are being managed in compliance with laws and regulations.

# Internal Controls

- Non-federal entities will need to exercise judgment in determining the most appropriate and cost effective internal control in a given circumstance
- *Internal Control Framework issued by the Committee on Sponsoring Organizations (COSO) and the Standards for Internal Control in the Federal Government (Green Book) issued by the Comptroller General are considered to be best practices in terms of their use by non-federal entities*
- Reasonable measures to safeguard protected personally identifiable information & other sensitive information

# Procurement

- Expanded from current administrative requirements
- New provision covering conflict of interest with parent, affiliate, or subsidiary organizations
- Procurement records must be maintained sufficiently to detail the history of all procurements, not just those over small purchase threshold
- New provision on time and material contracts
- Competition is stressed

# Procurement

- Five methods allowed:
  1. Procurement by micro-purchase (< \$3,000)
  2. Procurement by small purchase (>\$3,000, < \$150,000)
  3. Procurement by sealed bids (formal advertising)
  4. Procurement by competitive proposal
  5. Procurement by noncompetitive proposal
  
- Must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible (not just "positive efforts.. whenever possible")



# Procurement

- Cost or price analysis required only when purchase in excess of Simplified Acquisition Threshold (currently at \$150,000)
- Profit must be negotiated as a separate element of price when:
  - No there is no price competition
  - Contract is in excess of Simplified Acquisition Threshold
- Process for pre-procurement review by awarding agency or pass-through entity

# Performance Reporting

- Performance measurement reports
  - A comparison of actual accomplishments to the objectives of the Federal award established for the period.
  - The reasons why established goals were not met, if appropriate.
- Recipients must also provide cost information to demonstrate cost-effective practices. The intent is to help awarding agencies improve program outcomes, share lessons learned, and spread the adoption of best practices.

# Other Administrative Requirements

- Cost sharing — Voluntary committed cost sharing cannot be used as a factor during the merit review of applications or proposals
- Sub-recipient monitoring – Greater responsibilities for pass-through entity.
  - Monitoring must include reviewing financial and programmatic reports, Following-up and ensuring timely and appropriate action on deficiencies, and issuing a management decision for audit findings
  - Subaward must include an approved, federally recognized indirect cost rate negotiated between the sub-recipient and the federal government or the 10 percent de minimis rate

# Cost Principles

# Indirect Costs

- Federal agencies must accept negotiated indirect cost rates
- Exceptions in limited circumstances:
  - Pursuant to statute or regulation
  - Head of the agency approves it based on publicly documented justification.
- Requires pass-through entities to honor an organization's negotiated indirect cost rate or negotiate a rate.

## Indirect Costs

- Entities with an approved federally negotiated indirect cost rate can now apply for a one-time extension of up to four years without further negotiation.
- Can only use one-time extension if there have been no major changes to indirect costs and approval from the cognizant agency is received
- If approved, entity may not request a review of the rate until extension period is up

# Indirect Costs

- Non-federal entities that have never had a negotiated indirect cost rate may use a de minimus rate of 10 percent of modified total direct costs.
- Must use consistently on all awards until rate is negotiated, which entity may do at any time

# Administrative Salary Direct Costs

- Administrative and clerical staff salaries are normally treated as indirect costs, but direct charging may be appropriate if:
  - The services are integral to a project or activity
  - Individuals involved can be specifically identified with the project or activity
  - Costs are explicitly included in the budget or have prior written approval of the awarding agency
  - The costs are not also recovered as indirect costs



# Time and Effort Reporting

- Final guidance allows for alternatives to the current reporting requirements
- Guidance is less prescriptive on documentation and places more emphasis on internal control
- Changes made by OMB aimed at reducing the administrative burden of documenting time and effort

# Time and Effort Reporting - Current

## Non-Profit Organizations

- A-122 previously required detailed timesheets
- Specific support for salaries and wages included:
  - After-the-fact determination of actual activity for each employee, not the budgeted amount
  - Total activity for which employees were compensated;
  - Signed by individual employees or responsible supervisor
  - Prepared at least monthly to coincide with one or more pay periods.

# Time and Effort Reporting - Current

## Higher Education Institutions

- A-21 previously allowed budget estimates that were certified
- Specific support for salaries and wages included:
  - Plan confirmation (at beginning of academic term, employee identifies intended allocation of effort; at end of term confirms plan and if any changes)
  - or after-the-fact activity reports
  - signed off by employee or supervisor having first hand knowledge of activity of employee
  - for professorial and professional staff this is completed each academic term, no less frequently than every six months;
  - for other employees, reports will be prepared no less frequently than monthly or multiple confirmation record prepared at least every six months.

# Time and Effort Reporting - Current

## Governmental Organizations

- A-87 previously required detailed time records
- Specific support for salaries and wages included:
  - After-the-fact determination (budget estimates do not qualify),
  - must account for total activity of employee;
  - if employee works 100% in one cost objective a semi-annual time certification is required, which can be signed by either employee or knowledgeable supervisor;
  - if employee works in more than one cost objective a personnel activity report must be prepared on at least a monthly basis signed by employee.

# Time and Effort Reporting

- Charges must be based on records that accurately reflect the work performed and must:
  - Be supported by a system of internal controls which provides reasonable assurance that the charges are accurate, allowable and properly allocated
  - Reasonably reflect the total activity for which the employee is compensated by the non-federal entity, not exceeding 100% of compensated activities
  - Comply with the established accounting policies and practices of the non-federal entity
  - Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one federal award

# Time and Effort Reporting

- Budget estimates (estimates determined before services performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:
  - System for estimating must produce “reasonable approximations” of activity actually performed;
  - Significant changes in work activity (as defined in written policies) are identified and entered into records timely.
  - Must be a process to review the charges made based on budget and adjustments after the fact so that “the final amount charged to the Federal award is accurate, allowable, and properly allocated.”

# Time and Effort Reporting

- When records do not meet the standards, federal government may require personnel activity reports, including prescribed certifications, or equivalent documentation
- Guidance allows entities to replace detailed time-and-effort reports with performance-based reporting that is based on milestones.
  - The appropriate agency will have to approve the use of such an approach
  - Entities could use performance-based metrics to account for multiple awards

# Materials and Supplies

- Definition of supplies — If the acquisition cost of computer equipment is lesser of capitalization policy or \$5,000 (regardless of the length of the device's useful life), it should be considered a supply.
- Computer equipment can be charged as direct costs if they are essential and allocable, but not solely dedicated, to the performance of a federal award.



## Other Changes

- Prior Written Approval - Section 200.407 provides one place for non-federal entities to consult regarding the circumstances under which they should seek prior approval from the federal awarding agency
- Required Certifications – Section 200.415 clarifies that the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification that is signed by an official that can legally bind the organization

# Audit Requirements

# Single Audit

- Increased threshold for an A-133 audit
  - from \$500,000 to \$750,000
- Increased Type A threshold
  - A new table simplifies the Type A / Type B determination. For those organizations with federal expenditures below \$25 million, the threshold is increased from \$300,000 to \$750,000
- Increased Type B threshold
  - Programs that exceed 25% of the Type A threshold. For orgs with federal expenditures below \$25 million, threshold increased from \$100,000 to \$187,500

# Single Audit

- High Risk A criteria
  - Material weakness in I/C (was any control deficiency finding)
  - Modified opinion on the program
  - Known or likely questioned costs that exceed 5% of total program expenditures
- High Risk Bs to be tested
  - Auditor not required to identify more than at least  $\frac{1}{4}$  the number of low-risk Type A.
  - No longer have two options to choose from

# Single Audit

- Low-Risk Auditee Criteria
  - Now includes that auditors report did not include a going concern
  - Unmodified opinion on a major program
- Percentage of coverage rule
  - 25 percent to 20 percent for low-risk auditees
  - 50 percent to 40 percent for all others
- Questioned costs reporting
  - Increases the threshold for reporting known or likely questioned costs from \$10,000 to \$25,000
  - Requires more detailed information to be reported

# Single Audit

- Compliance supplement — OMB did not include the reduced compliance requirements
  - Will be Appendix XI to Part 200
  - The proposed guidance eliminated half of the requirements
  - No changes made in the final rules due to the compliance supplement being published as part of a separate process
- A preview of the modified 2015 requirements was expected to appear in the 2014 edition, however OMB still working on which provisions eliminate waste, abuse, and fraud

# Questions and Thank you



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