Federal Government Update

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FEDERAL GOVERNMENTAL UPDATE

GAO, OMB, Data Act, Super/Omni Circular

…and a lot of other stuff! September 2016

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What Color Book Are YOU Using?

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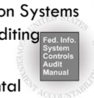

- The Yellow Book – GAO GAGAS
- The Green Book – GAO Standards for Internal Control in the Federal Government
- The Red Book – Principles of Federal Appropriation Law
- The FAM (Blue) – Financial Audit Manual (methodology for auditing federal f.s.)
- The Silver Book – FISCAM – Federal Information Systems Controls Audit Manual (methodology for auditing federal IS)
- The Blue Book (GAAFR) – GFOA's Governmental Accounting, Auditing, and Financial Reporting

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GAO: THE GREEN BOOK – STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT

Definition of Internal Control

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Internal control is a process – effected by those charged with governance, management, and other personnel – designed to provide reasonable assurance about the achievement of entity's objectives with regard to:

- **Reliability of financial reporting**
- **Effectiveness and efficiency of operations, and**
- **Compliance with applicable laws and regulations**

Source: AICPA SAS 115

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Internal Control A Brief History

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- Term was first used in 1949 by the AIA (now AICPA) and revised in 1972 yet…
- Internal Control like things have been going on since ancient times.
- As society changed so did the need for more advanced control.

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Ancient Control

5

Tally Sticks

Ezra

Pacioli

5

Milestone Foreign Corrupt Practices Act

- In mid 70's over 400 US companies involved in bribery
- Congress's response
  - Unlawful to bribe
  - Accounting Provisions
    - Must keep good books
    - Must maintain an adequate system of Internal Controls.

COSO (aka Treadway Commission)

- COSO was organized in 1985 to sponsor the National Commission on Fraudulent Financial Reporting, an independent private-sector initiative that studied the causal factors that can lead to fraudulent financial reporting.

Who Makes Up COSO?

Five major professional associations headquartered in the United States:

1. American Accounting Association (AAA)
2. The American Institute of Certified Public Accountants (AICPA)
3. Financial Executives International (FEI),
4. The Institute of Internal Auditors (IIA),
5. Institute of Management Accountants (IMA)

Summary of Updates

Ever-changing conditions...	*Drive updates to the Framework...*
Expectations for governance oversight	
Globalization of markets and operations	
Changes in business models	
Demands and complexity of rules, regulations and standards	
Expectations for competencies and accountabilities	
Use and reliance on evolving technology	
Expectations for preventing and detecting fraud	

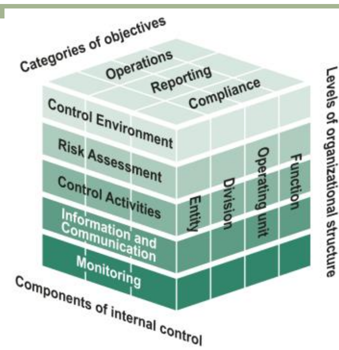
Updated COSO Cube

Summary of Updates

Codification of 17 principles embedded in the original Framework

Control Environment	1. Demonstrates commitment to integrity and ethical values 2. Exercises oversight responsibility 3. Establishes structure, authority and responsibility 4. Demonstrates commitment to competence 5. Enforces accountability
Risk Assessment	6. Specifies relevant objectives 7. Identifies and analyzes risk 8. Assesses fraud risk 9. Identifies and analyzes significant change
Control Activities	10. Selects and develops control activities 11. Selects and develops general controls over technology 12. Deploys through policies and procedures
Information & Communication	13. Uses relevant information 14. Communicates internally 15. Communicates externally
Monitoring Activities	16. Conducts ongoing and/or separate evaluations 17. Evaluates and communicates deficiencies

2014 COSO CUBE



Objectives of IC

- Operations
  - effectiveness & efficiency of operations
- Reporting
  - reliability of reporting for internal and external use
- Compliance
  - with applicable laws and regulations

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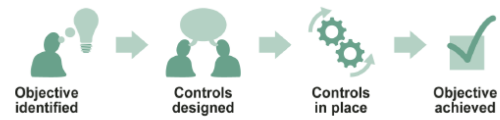
Achieving Objectives Through IC



Source: GAO. | GAO-14-704G

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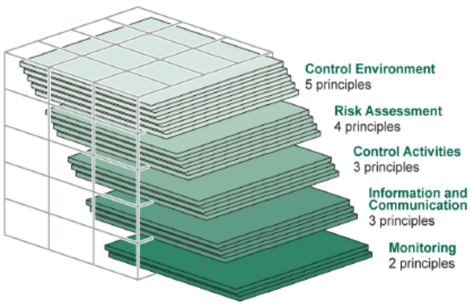
5 Components & 17 Principles



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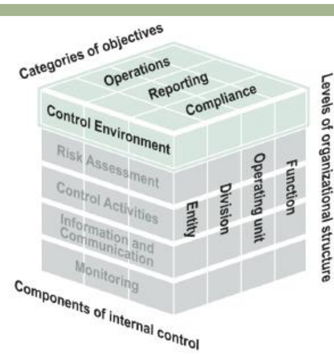
Control Environment



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Control Environment

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It is the foundation for effective internal control, providing discipline and structure.

The control environment sets the tone of an organization influencing the control consciousness of its people.

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Management's Philosophy and Operating Style

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Management philosophy is the set of shared beliefs and attitudes characterizing how the agency handles everything it does, from developing and implementing strategy to day-to-day activities. This philosophy reflects the agency's values, influencing its culture and operating style, and affects how well fiscal programs can implement, maintain, and enforce control.

MAAPP Manual Section 30

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Management's Philosophy and Operating Style

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Management philosophy appears in policy statements, oral and written communications, and decision-making. Management reinforces the philosophy more with everyday actions than with its words.

MAAPP Manual Section 30

Management's Philosophy and Operating Style

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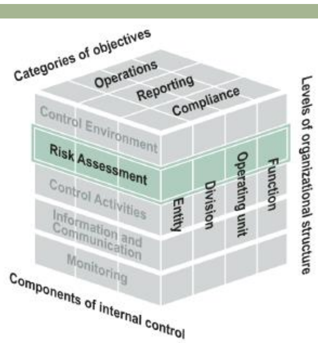
- Approach to taking and monitoring business risks
- Attitudes and actions toward financial reporting (conservative or aggressive application of GAAP, conscientiousness and conservatism when developing accounting estimates)
- Attitude toward information processing and accounting functions and personnel

Risk Assessment



Risk – What Is It?

- Anything bad that might happen and prevent us from achieving our objectives.
- Why should you care?

Because every manager is a risk manager.

Risk Assessment

Assesses the risks facing the entity as it seeks to achieve its objectives. This assessment provides the basis for developing appropriate risk responses.

This Guy Assesses Risk

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Possible Responses to Risk

- 1. Avoid it.
- 2. Live with it.
- 3. Share it (or transfer it to someone else).
- 4. Attempt to manage it.

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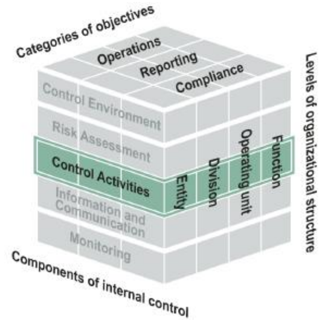
Control Activities



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Control Activities

The actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system, including the entity's information systems.

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Examples of Common Categories of Control Activities

- Top-level reviews of actual performance
- Reviews by management at the functional or activity level
- Management of human capital
- Controls over information processing
- Physical control over vulnerable assets
- Establishment and review of performance measures and indicators

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Examples of Common Categories of Control Activities

- Segregation of duties
- Proper execution of transactions
- Accurate and timely recording of transactions
- Access restrictions to and accountability for resources and records
- Appropriate documentation of transactions and internal control

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Necessary Level of Precision for Control Activities

- Purpose of the control activity
  - Prevention/detection more precise than identify/explain
- Level of aggregation
  - Granular more precise than higher level
- Consistency of performance
  - Routine is more precise than sporadic
- Correlation to relevant operation processes
  - Directly related more precise than indirectly related

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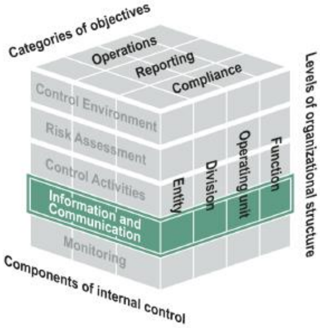
Design Activities for Information System

- Design of the entity's information system
- Design of appropriate types of control activities
- Design of information technology infrastructure
- Design of security management
- Design of information technology acquisition, development and maintenance

Information Processing Objectives

- Completeness
- Accuracy
- Validity

Information & Communication



Information & Communication

The quality information management and personnel communicate and use to support the internal control system.

Appropriate Methods of Communication

- Audience
- Nature of Information
- Availability
- Cost
- Legal or regulatory requirements

An illustration of ineffective communication

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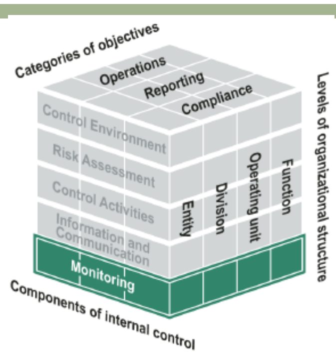
Monitoring



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Monitoring

Activities management establishes and operates to assess the quality performance over time and promptly resolve the finding of audits and other reviews.

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Monitoring Activities

- Establishment of a baseline
- IC system monitoring
- Reporting of issues
- Evaluation of issues & results
- Corrective actions

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When you think you have the perfect mouse trap….

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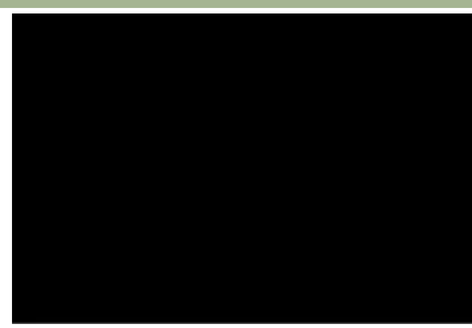

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The Green Book Tool

- Exposure Draft currently in development

- Process Audit Approach
- Program Audit Approach
- Entity Audit Approach

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Objectives and Approach

- What are your objectives?
- Objectives are different at different levels
- Once objectives are defined
  - Develop an approach

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Examples of Objectives

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Entity-Level Objectives	Transaction-Level Objectives
An organization's objective is to provide safe, affordable housing for low-income families, seniors, and people with disabilities.	A purpose of one of the organization's programs is to provide housing subsidies for seniors.
An organization's strategic goal is to improve the effectiveness of the communication with the public.	An objective of one of the organization's departments is to develop a plan for revising the organization's website to make it more user-friendly for the public.
An organization's vision is to be a trustworthy and reliable source of financial aid for college students.	An objective of one of the organization's processes is to monitor schools' compliance with federal student aid requirements.

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Control Environment

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Green Flags	Red Flags
✓ Management has developed an organizational structure with clearly defined roles.	✗ It is difficult to determine the entities or individuals who have responsibility for programs or particular parts of programs
✓ Programs are in place to train personnel and reinforce standards of conduct.	✗Personnel do not understand what behavior is acceptable or unacceptable
✓ Management displays concern for internal control and is responsive to deviations or recommendations to improve internal controls.	✗ Top management is unaware of actions taken at the lower level of the entity and does not promote an atmosphere of integrity within the organization

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Risk Assessment

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Green Flags	Red Flags
✓ Management acknowledges risk exists and assesses and analyzes risk throughout the organization.	✗ The organization does not have a process in place to detect risk and reacts only to issues once they have become pervasive within the organization.
✓ The organization has programs in place to combat fraud, waste, and abuse.	✗The organization is unaware of obstacles to it's mission.
✓ The organization has plans for and quickly adjusts to internal and external changes.	✗ The organization is not able to overcome obstacles to it's mission, either efficiently or at all.

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Information and Communication

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Green Flags	Red Flags
✓ Staff are aware of and implement changes made by management.	✗ Management is using poor quality or outdated information for making decisions.
✓ Management continually evaluates sources of data to ensure information is reliable and accurate.	✗Management does not have reasonable assurance the information it is using is accurate.
✓ Information is accessible and reliable for use internally and externally.	✗ Staff are frustrated by the requests for information because it is time-consuming and difficult to provide the information.

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Control Activities

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Green Flags	Red Flags
✓ There are documented policies and procedures which are routinely reviewed and updated.	✗ Operating policies and procedures have not bee developed, are outdated, or are not followed. (and, are not written)…
✓ Control activities described in policies and procedures are applied appropriately	✗Key steps to a process are not being performed.
✓ Designated control activities are clearly linked to the organization's objectives and related risks.	✗ Personnel and management are uncertain why process are being performed or how processes are related to goals or objectives.

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Monitoring

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Green Flags	Red Flags
✓ Management implements changes to the control structure to enhance efficiency and effectiveness of procedures.	✗ Management does not evaluate programs or processes on an ongoing basis.
✓ Supervisor timely conducts and documents reviews to detect and correct problems.	✗Significant problems exist in controls and management is unaware of problems until a bigger problem occurs.
✓ Management documents and implements corrective action plans to ensure control deficiencies are addressed.	✗ There are unresolved problems with the other components: control environment, risk assessment, control activities, and information and communications.

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Planning Phase

- Identify the organization's objectives
- Obtain an understanding of the five components
- Assess the significance of internal control
- Determine the scope and methodology

Level of Internal Control Assessments

- Design
- Implementation
- Consider Operating Effectiveness as appropriate

Testing Phase

- Identify controls to test
- Test the design of controls
- Test the implementation of controls
- Test the operating effectiveness of controls, applicable

Evaluating Internal Control Deficiencies

- Evaluate the Significance of Deficiencies

Reporting on Internal Control

- GAS Performance Audit Requirements
- Auditors need to provide sufficient information on Objectives, Scope, and Methodology

Internal Control Considerations Template

- Section 1: Determining the Significance of Internal Control
- Section 2: Planning Phase
- Section 3: Testing Phase
- Section 4: Reporting Phase

Audit Examples in the Green Book

- Performance Audit of a Grant Program
- Performance Audit involving Entity-Level Controls
- Performance Audit of a State Program

Green Book Tool Timing

- Exposure Draft Expected May 2017
- 90-day Comment Period Planned
- Final Tool Expected Winter 2018

GAO: A FRAMEWORK FOR MANAGING FRAUD RISKS IN FEDERAL PROGRAMS:

GUIDANCE FOR CONSIDERING FRAUD

Fraud Reduction and Data Analytics Act of 2015

- Signed into law, June 30, 2015 – PL 114-186. Requires OMB to establish guidelines for federal agencies to institute financial and administrative controls to identify and assess fraud risks and design and implement control activities in order to prevent, detect, and respond to fraud, including improper payments.
- The guidelines shall incorporate the leading practices identified in the report published by the GAO on July 28, 2015, entitled "Framework for Managing Fraud Risks in Federal Programs."

Relationship Between the Green Book and the Fraud Framework

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Green Book	Fraud Framework
Provides **standards** and is **required** for managers.	Basis for the Fraud Reduction and Data Analytics Act of 2015
Requires managers to consider fraud when assessing risks (Principle 8).	Provides guidance for implementing this requirement.
Includes principles and attributes related to all aspects of internal control.	Adapts **Green Book** principles and attributes to a fraud-specific context.

When Should You Consider Using the Framework?

- Auditors should consider using the Framework when engagement objectives relate to managers' efforts to:
  - Identify or assess fraud risks; or
  - Prevent, detect, or respond to fraud.
- The concepts and practices are intended to apply to all fraud types, including:
  - Internal and external fraud;
  - Financial and non-financial fraud; and,
  - Beneficiary fraud, contract fraud, etc.

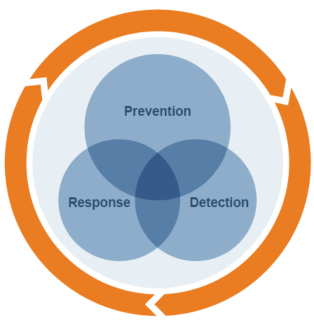
How Does the Framework Relate to Existing Federal Efforts to Combat Fraud?

- The Framework complements existing federal efforts, including:
  - The revised Standards for Internal Control in the Federal Government (effective October 1, 2015)
  - OMB guidance on improper payments (OMB A-123)
- However, the Framework is fraud-specific and applies to non-financial, as well as financial, fraud risks.

Who Can Use the Framework?

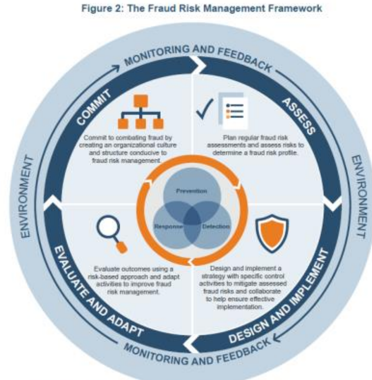
- The Framework's leading practices serve as a guide for ***federal program managers*** to use when developing or enhancing efforts to combat fraud in a strategic, risk-based manner.
  - Managers can use the Framework to help implement Principle 8 of *Standards for Internal Control in the Federal Government – "Assess Fraud Risks"*
  - Managers can tailor the Framework to their programs' operations and environment, including existing risk management efforts

Figure 1: Interdependent and Mutually Reinforcing Categories of Fraud Control Activities



Source: GAO. | GAO-15-593SP

Figure 2: The Fraud Risk Management Framework



Source: GAO. | GAO-15-593SP

Commit

Commit to combating fraud by creating an organizational culture and structure conducive to fraud risk management.

- Demonstrate a senior-level commitment to combat fraud and involve all levels of the program in setting an antifraud tone.
- Designate an entity within the program office to lead fraud risk management activities.
- Ensure the entity has defined responsibilities and the necessary authority to serve its role.

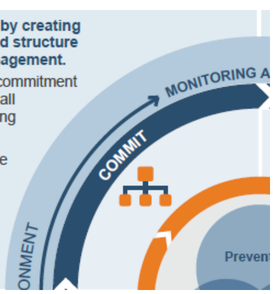


Table 1: Leading Practices for Creating a Culture and Structure to Manage Fraud Risks

1.1 Create an Organizational Culture to Combat Fraud at All Levels of the Agency
Demonstrate a senior-level commitment to integrity and combating fraud.
Involve all levels of the agency in setting an antifraud tone that permeates the organizational culture.
1.2 Create a Structure with a Dedicated Entity to Lead Fraud Risk Management Activities
Designate an entity to design and oversee fraud risk management activities that • understands the program and its operations, as well as the fraud risks and controls throughout the program;[a] • has defined responsibilities and the necessary authority across the program; • has a direct reporting line to senior-level managers within the agency; and • is located within the agency and not the Office of Inspector General (OIG), so the latter can retain its independence to serve its oversight role.
In carrying out its role, the antifraud entity, among other things • serves as the repository of knowledge on fraud risks and controls; • manages the fraud risk-assessment process; • leads or assists with trainings and other fraud-awareness activities; and • coordinates antifraud initiatives across the program.

Source: GAO. | GAO-15-593SP

Plan & Assess for Risks

Plan regular fraud risk assessments and assess risks to determine a fraud risk profile.

- Tailor the fraud risk assessment to the program, and involve relevant stakeholders.
- Assess the likelihood and impact of fraud risks and determine risk tolerance.
- Examine the suitability of existing controls, prioritize residual risks, and document a fraud risk profile.

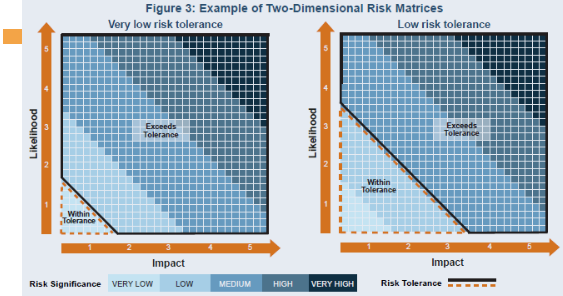
Table 2: Leading Practices for Planning and Conducting Fraud Risk Assessments

2.1 Plan Regular Fraud Risk Assessments That Are Tailored to the Program
Tailor the fraud risk assessment to the program.
Plan to conduct fraud risk assessments at regular intervals and when there are changes to the program or operating environment, as assessing fraud risks is an iterative process.
Identify specific tools, methods, and sources for gathering information about fraud risks, including data on fraud schemes and trends from monitoring and detection activities.
Involve relevant stakeholders in the assessment process, including individuals responsible for the design and implementation of fraud controls.

2.2 Identify and Assess Risks to Determine the Program's Fraud Risk Profile
Identify inherent fraud risks affecting the program.
Assess the likelihood and impact of inherent fraud risks. • Involve qualified specialists, such as statisticians and subject-matter experts, to contribute expertise and guidance when employing techniques like analyzing statistically valid samples to estimate fraud losses and frequency. • Consider the nonfinancial impact of fraud risks, including impact on reputation and compliance with laws, regulations, and standards.
Determine fraud risk tolerance.
Examine the suitability of existing fraud controls and prioritize residual fraud risks.
Document the program's fraud risk profile.

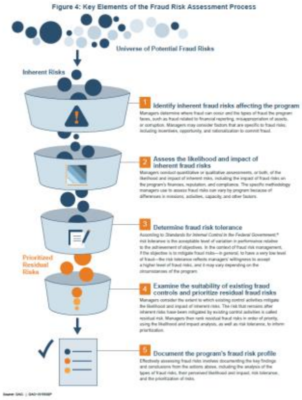
Source: GAO. | GAO-15-593SP

Figure 3: Example of Two-Dimensional Risk Matrices

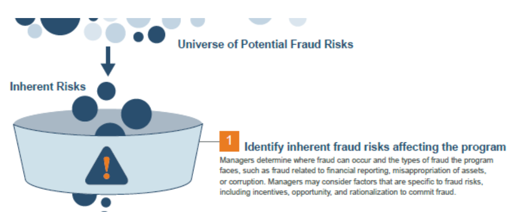


Source: GAO. | GAO-15-593SP

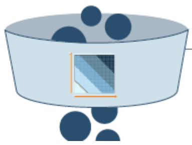
Figure 4: Key Elements of the Fraud Risk Assessment Process



Identify Inherent Risks



Assess Likelihood and Impact of Inherent Risks



2 Assess the likelihood and impact of inherent fraud risks

Managers conduct quantitative or qualitative assessments, or both, of the likelihood and impact of inherent risks, including the impact of fraud risks on the program's finances, reputation, and compliance. The specific methodology managers use to assess fraud risks can vary by program because of differences in missions, activities, capacity, and other factors.

Determine Risk Tolerance, Examine Controls & Prioritize Residual Risks

3 Determine fraud risk tolerance

According to *Standards for Internal Control in the Federal Government*,[a] risk tolerance is the acceptable level of variation in performance relative to the achievement of objectives. In the context of fraud risk management, if the objective is to mitigate fraud risks—in general, to have a very low level of fraud—the risk tolerance reflects managers' willingness to accept a higher level of fraud risks, and it may vary depending on the circumstances of the program.

4 Examine the suitability of existing fraud controls and prioritize residual fraud risks

Managers consider the extent to which existing control activities mitigate the likelihood and impact of inherent risks. The risk that remains after inherent risks have been mitigated by existing control activities is called residual risk. Managers then rank residual fraud risks in order of priority, using the likelihood and impact analysis, as well as risk tolerance, to inform prioritization.

Document Risk Profile

5 Document the program's fraud risk profile

Effectively assessing fraud risks involves documenting the key findings and conclusions from the actions above, including the analysis of the types of fraud risks, their perceived likelihood and impact, risk tolerance, and the prioritization of risks.

Design & Implement Strategy

Design and implement a strategy with specific control activities to mitigate assessed fraud risks and collaborate to help ensure effective implementation.

- Develop, document, and communicate an antifraud strategy, focusing on preventive control activities.
- Consider the benefits and costs of controls to prevent and detect potential fraud, and develop a fraud response plan.
- Establish collaborative relationships with stakeholders and create incentives to help ensure effective implementation of the antifraud strategy.

Table 3: Leading Practices for Designing and Implementing an Antifraud Strategy with Control Activities

3.1 Determine Risk Responses and Document an Antifraud Strategy Based on the Fraud Risk Profile
Use the fraud risk profile to help decide how to allocate resources to respond to residual fraud risks.
Develop, document, and communicate an antifraud strategy to employees and stakeholders that describes the program's activities for preventing, detecting, and responding to fraud, as well as monitoring and evaluation.
Establish roles and responsibilities of those involved in fraud risk management activities, such as the antifraud entity and external parties responsible for fraud controls, and communicate the role of the Office of Inspector General (OIG) to investigate potential fraud.
Create timelines for implementing fraud risk management activities, as appropriate, including monitoring and evaluations.
Demonstrate links to the highest internal and external residual fraud risks outlined in the fraud risk profile.
Link antifraud efforts to other risk management activities, if any.

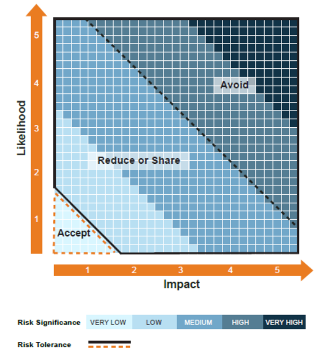
3.2 Design and Implement Specific Control Activities to Prevent and Detect Fraud
Focus on fraud prevention over detection and response to avoid a "pay-and-chase" model, to the extent possible.
Consider the benefits and costs of control activities to address identified residual risks.
Design and implement the following control activities to prevent and detect fraud:[a] • data-analytics activities, • fraud-awareness initiatives, • reporting mechanisms, and • employee-integrity activities.
3.3 Develop a Plan Outlining How the Program Will Respond to Identified Instances of Fraud
Develop a plan outlining how the program will respond to identified instances of fraud and ensure the response is prompt and consistently applied.
Refer instances of potential fraud to the OIG or other appropriate parties, such as law-enforcement entities or the Department of Justice, for further investigation.

3.4 Establish Collaborative Relationships with Stakeholders and Create Incentives to Help Ensure Effective Implementation of the Antifraud Strategy

Establish collaborative relationships with internal and external stakeholders, including other offices within the agency; federal, state, and local agencies; private-sector partners; law-enforcement entities; and entities responsible for control activities to, among other things, • share information on fraud risks and emerging fraud schemes, and • share lessons learned related to fraud control activities.
Collaborate and communicate with the OIG to improve understanding of fraud risks and align efforts to address fraud.
Create incentives for employees to manage risks and report fraud, including • creating performance metrics that assess fraud risk management efforts and employee integrity, particularly for managers; and • balancing fraud-specific performance metrics with other metrics related to employees' duties.
Provide guidance and other support and create incentives to help external parties, including contractors, effectively carry out fraud risk management activities.

Source: GAO. | GAO-15-593SP

Figure 5: Potential Responses to Fraud Risks Based on Assessed Likelihood, Impact, and Risk Tolerance



Source: GAO. | GAO-15-593SP

Table 4: Key Elements of an Antifraud Strategy

Who is responsible for fraud risk management activities?	Establish roles and responsibilities of those involved in fraud risk management activities, such as the antifraud entity and external parties responsible for fraud controls, and communicate the role of the Office of Inspector General (OIG) to investigate potential fraud.
What is the program doing to manage fraud risks?	Describe the program's activities for preventing, detecting, and responding to fraud, as well as monitoring and evaluation.[a]
When is the program implementing fraud risk management activities?	Create timelines for implementing fraud risk management activities, as appropriate, including monitoring and evaluations.
Where is the program focusing its fraud risk management activities?	Demonstrate links to the highest internal and external residual fraud risks outlined in the fraud risk profile.
Why is fraud risk management important?	Communicate the antifraud strategy to employees and other stakeholders, and link antifraud efforts to other risk management activities, if any.

Source: GAO. | GAO-15-593SP

Data-Analytics Activities[a] Data-analytics activities can include a variety of techniques. For example, data mining and data-matching techniques can enable programs to identify potential fraud or improper payments that have already been awarded, thus assisting programs in recovering these dollars, while predictive analytics can identify potential fraud before making payments.[b]	Take a risk-based approach to data analytics and consider the benefits and costs of investing in specific data-analytic tools and techniques.
	Build support within the program for data-analytics activities.
	Ensure employees have sufficient knowledge, skills, and training to perform data analytics.
	Combine data across programs and from separate databases within the agency to facilitate reporting and analytics, if legally permissible.
	Pursue access to necessary external data, including pursuing data-sharing agreements.
	Consider program rules and known or previously encountered fraud schemes to design data-analytic tests.
	Conduct the following data-analytics activities to prevent and detect fraud: • Apply system edit checks to help ensure data meet requirements before data are accepted into the program's system and before payments are made. • Conduct data matching to verify key information, including self-reported data and information necessary to determine eligibility. • Conduct data mining to identify suspicious activity or transactions, including anomalies, outliers, and other red flags in the data.
	Automate data-analytic tests to monitor data for fraud indicators on a continuous, real-time basis.
	Tailor the output of data analytics to the intended audience to help ensure the results are usable.
	Review the results of data analytics and refer appropriate cases to the Office of Inspector General (OIG) for further investigation.

Fraud-Awareness Initiatives[a] Increasing managers' and employees' awareness of potential fraud schemes through training and education can serve a preventive purpose by helping to create a culture of integrity and compliance within the program. Further, increasing fraud awareness can enable managers and employees to better detect potential fraud. In addition, increasing fraud awareness externally can help prevent and deter fraud.	Require all employees, including managers, to attend training upon hiring and on an ongoing basis thereafter, and maintain records to track compliance.
	Collaborate with the OIG when planning or conducting training and promote the results of successful OIG investigations internally.
	Provide training to stakeholders with responsibility for implementing aspects of the program, including contractors and other external entities responsible for fraud controls.
	Use multiple methods to reinforce key antifraud messages.
	Convey fraud-specific information that is tailored to the program and its fraud risk profile, including information on fraud risks, employees' responsibilities, and the effect of fraud.
	Take steps to increase awareness about program integrity and antifraud efforts outside the program, including publicizing information on antifraud efforts and successfully resolved cases.

Reporting Mechanisms Reporting mechanisms include hotlines, whistleblower policies, and other mechanisms for receiving tips. Reporting mechanisms help managers to detect instances of potential fraud, and they can also deter individuals from engaging in fraudulent behavior if they believe that the fraud will be discovered and reported.	Provide multiple options in addition to hotlines for potential reporters of fraud to communicate, such as online systems, e-mail, fax, written formats, or face-to-face.
	Ensure individuals external to the agency that may be aware of potential fraud, such as vendors, program beneficiaries, and the public, can report potential fraud.
	Take steps to ensure individuals feel comfortable raising suspicions by providing them the opportunity to report suspicions anonymously if preferred, treating all reports confidentially, and establishing policies that prohibit retaliation for employees who make reports in good faith.
	Promote the existence of reporting mechanisms by reminding employees periodically about reporting mechanisms, and publicizing information on the reporting mechanism externally, such as including information about methods for reporting suspected fraud on the program's website.
Employee-Integrity Activities[c] Employee-integrity activities can prevent fraud by helping managers to establish a culture that is conducive to fraud risk management.	Take steps, such as conducting background checks, to screen employees for integrity issues, including prospective employees and employees in positions of trust or that pose a higher risk of fraud.
	Tailor the extent of employee screening to the risk level of the position.
	Develop and communicate a standard of conduct that applies to all employees and includes information on • the program's general expectations of behavior, using specific examples, such as cases of prohibited behavior and situations employees may encounter, and • the program's response to violations of the standard of conduct, such as disciplinary actions and sanctions.

Source: GAO. | GAO-15-593SP

Evaluate & Adapt

Evaluate outcomes using a risk-based approach and adapt activities to improve fraud risk management.

- Conduct risk-based monitoring and evaluation of fraud risk management activities with a focus on outcome measurement.
- Collect and analyze data from reporting mechanisms and instances of detected fraud for real-time monitoring of fraud trends.
- Use the results of monitoring, evaluations, and investigations to improve fraud prevention, detection, and response.

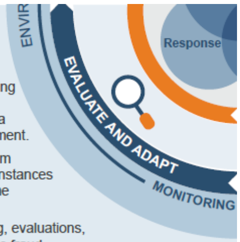


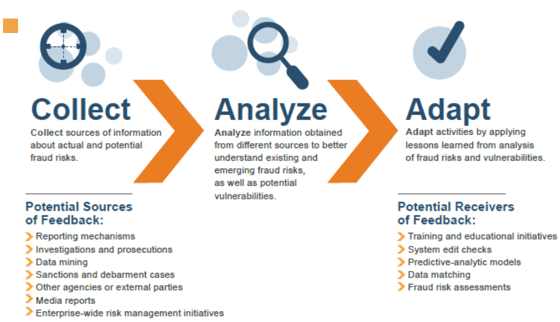
Table 6: Leading Practices for Monitoring, Evaluating, and Adapting Fraud Risk Management Activities

4.1 Conduct Risk-Based Monitoring and Evaluate All Components of the Fraud Risk Management Framework
Monitor and evaluate the effectiveness of preventive activities, including fraud risk assessments and the antifraud strategy, as well as controls to detect fraud and response efforts.
Collect and analyze data, including data from reporting mechanisms and instances of detected fraud, for real-time monitoring of fraud trends and identification of potential control deficiencies.
Employ a risk-based approach to monitoring by taking into account internal and external factors that can influence the control environment, such as organizational changes and emerging risks.
Engage stakeholders responsible for specific fraud risk management activities in the monitoring and evaluation process.

4.2 Monitor and Evaluate Fraud Risk Management Activities with a Focus on Measuring Outcomes
Measure outcomes, in addition to outputs, of fraud risk management activities.
In the absence of sufficient data, assess how well managers follow recommended "leading practices" for designing fraud risk management activities.
4.3 Adapt Fraud Risk Management Activities and Communicate the Results of Monitoring and Evaluations
Use the results of monitoring and evaluations to improve the design and implementation of fraud risk management activities.
Use analysis of identified instances of fraud and fraud trends to improve fraud risk management activities, including prioritizing and taking corrective actions, as well as enhancing fraud-awareness trainings.
Use results of investigations and prosecutions to enhance fraud prevention and detection.
Communicate results of monitoring and evaluations, including corrective actions taken, if any, to relevant stakeholders.

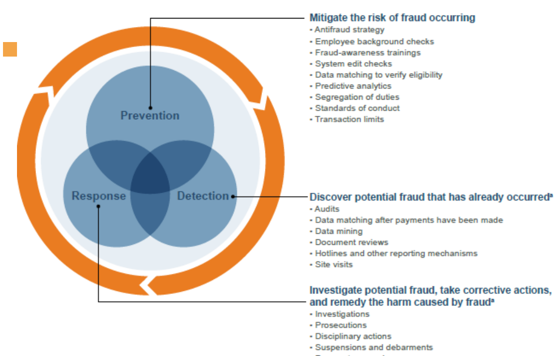
Source: GAO. | GAO-15-593SP

Figure 6: Incorporating Feedback to Continually Adapt Fraud Risk Management Activities



Source: GAO. | GAO-15-593SP

Figure 7: Examples of Controls and Activities to Prevent, Detect, and Respond to Fraud



Source: GAO. | GAO-15-593SP

Table 7: Leading Practices for Developing and Conveying Training Content

Convey information about fraud risks and related requirements, including:	The definition of fraud and examples of specific types of fraud that employees are likely to encounter, illustrated by actual fraud cases.
	Information on how to identify fraud schemes, including use of red flags and risk indicators.
	Relevant legislation and policies.
Communicate employees' responsibilities, including:	Expectations regarding ethical behavior, including information on the program's standards of conduct.
	Responsibilities for contributing to fraud risk management, including implementing fraud controls and reporting potential fraud.
	Information on how and where to report fraud, including information on reporting mechanisms, and what to report.
Discuss the effect of fraud, including:	A positive message, such as emphasizing the benefits of fraud risk management for the program.
	The cost of fraud to the program.
	Consequences of engaging in fraud, such as sanctions, disciplinary actions, and other punishments.

Source: GAO. | GAO-15-593SP

GAO: THE DATA ACT – PROGRESS MADE & CHALLENGES AHEAD

We have TONS of DATA…what we need is INFORMATION

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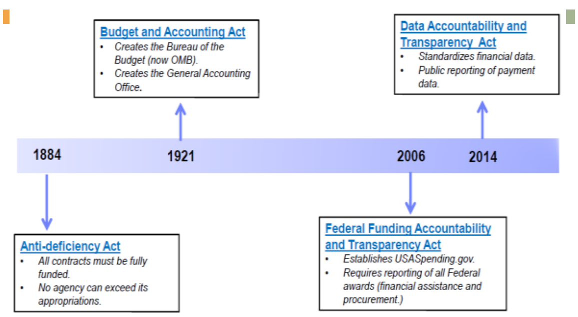
A Brief History of Federal Government Financial Data



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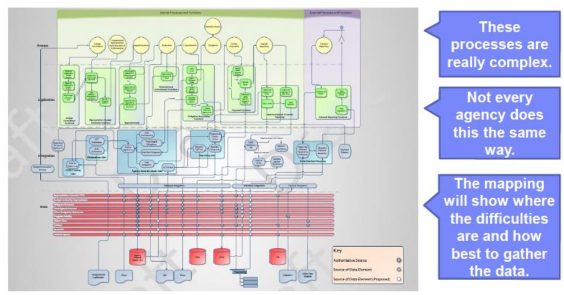
Data Mapping



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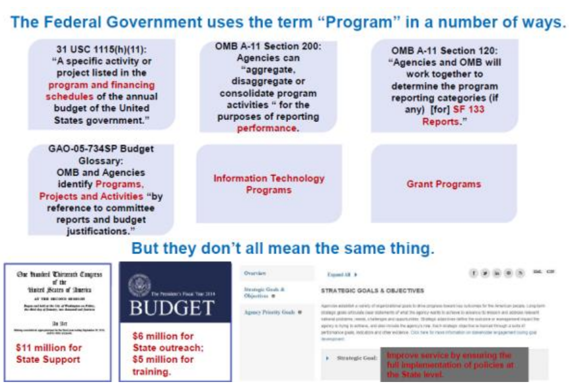

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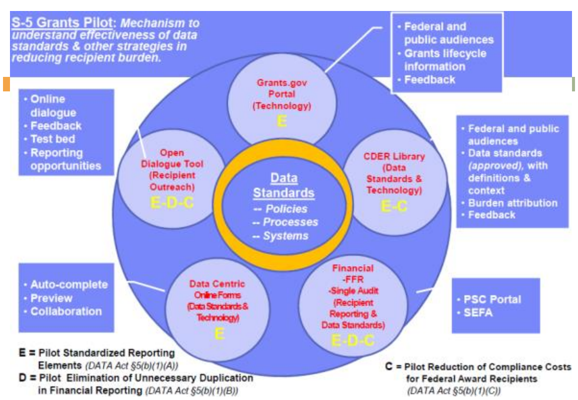

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Data Act Milestones

Provision	Government Status
Establish Data Standards [P.L. 113-101 § 4(c) 1]	**By May 2015**, The Department of Treasury and OMB are to issue guidance on Government-wide data standards, including - Identifying data elements - Establishing definitions - Determining reporting formats
Improve FFATA reporting for awards in USASpending.gov [P.L. 113-101 § 4(c)2]	**By May 2017**, all Agencies are to provide payment information in USASpending.gov for Federal awards according to OMB/Treasury guidance.
Provide Account-level data to public website [P.L. 113-101 § 3(2)	**By May 2018**, all Agencies are to provide the following for each **ACCOUNT**: TOTAL: Appropriation, Obligation, Unobligated Balance, Other Budgetary Resources PROGRAM ACTIVITY BREAKOUT: Appropriation, Obligation, Outlays OBJECT CLASS BREAKOUT: Appropriation, Obligation Outlays For each **PROGRAM ACTIVITY**: OBJECT CLASS BREAKOUT: Obligation, Outlays
Pilot program to simplify reporting [P.L. 113-101 § 5]	**By May 2015**, a Federal Agency must begin a pilot to use standard reporting elements to eliminate financial reporting duplication and streamline data collection for Federal awards.

15 Elements Definitions finalized on May 8, 2015	▶ Appropriations Account ▶ Awarding Agency Code ▶ Awarding Agency Name ▶ Budget Authority Appropriated ▶ Highly Compensated Officer Name	▶ Highly Compensated Officer Total Compensation ▶ North American Industrial Classification System Code ▶ North American Industrial Classification System Description	▶ Object Class ▶ Obligation ▶ Other Budgetary Resources ▶ Outlay ▶ Program Activity ▶ Treasury Account Symbol ▶ Unobligated Balance
8 Elements Definitions finalized on June 26, 2015	▶ Award Description ▶ Award Identificaton Number ▶ Award Modification/ Amendment Number	▶ Legal Entity Address ▶ Legal Entity Congressional District ▶ Legal Entity Country Code	▶ Legal Entity Country Name ▶ Parent Award Identification Number
4 Elements Definitions finalized on July 10, 2015	▶ Awardee/Recipient Legal Entity Name ▶ Awardee/Recipient Unique Identifier	▶ Ultimate Parent Legal Entity Name	▶ Ultimate Parent Unique Identifier
30 Elements Definitions not finalized and public input open	▶ Action Date ▶ Awarding Office Code ▶ Awarding Office Name ▶ Awarding Sub Tier Agency Code ▶ Awarding Sub Tier Agency Name ▶ Business Type ▶ Catalog of Federal Domestic Assistance (CFDA) Number ▶ CFDA Title ▶ Current Total Funding Obligation Amount on Award ▶ Current Total Value of Award	▶ Funding Action Obligation ▶ Funding Agency Code ▶ Funding Agency Name ▶ Funding Office Code ▶ Funding Office Name ▶ Funding Sub Tier Agency Code ▶ Funding Sub Tier Agency Name ▶ Non-federal Funding Amount ▶ Ordering Period End Date ▶ Period of Performance Current End Date ▶ Period of Performance Potential End Date	▶ Period of Performance Start Date ▶ Potential Total Value of Award ▶ Primary Place of Performance Address ▶ Primary Place of Performance Congressional District ▶ Primary Place of Performance Country Code ▶ Primary Place of Performance Country Name ▶ Record Type ▶ Type of Action ▶ Type of Transaction Code

Source: GAO analysis of Office of Management and Budget and Treasury plans for establishing government-wide data standards under the DATA Act. | GAO-15-752T

KEY ASPECTS OF THE *UNIFORM ADMINISTRATIVE REQUIREMENTS COST PRINCIPLES AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS* (THE SUPER OR OMNI-CIRCULAR)

What Changes are Ahead and Why Do We Care?

Make the Super Circular Useful to You!

- Don't let the size of the document intimidate you!
- Tab it to manageable sections
  - Color code
    - Suggestions:
    - **RED TAB** the preamble…pp. 78590-78608
    - (provides the background, comments received, and though process behind the decision to make or not make certain changes). Understanding this section will help as you process each of the subparts.

Make the Super Circular Useful to You!

- Part 200 – Subparts
  - Part 200 – "Table of Contents"
    - 6 Sections plus Appendices
    - **GREEN TAB** each Subpart
      - A – Acronyms and Definitions … pp. 78615-78617
      - B – General Provisions …pp. 78617-78621
      - C – Pre-Federal Award Requirements and Contents of Federal Awards…pp. 78621-78624

Make the Super Circular Useful to You!

- Part 200 – Subparts
  - Part 200 – "Table of Contents"
    - **GREEN TAB** each Subpart…continued
      - D – Post Federal Award Requirements Standards for Financial and Program Management…pp. 78624-78639
      - E – Cost Principles…pp. 78639-78662
      - F – Audit Requirements…pp. 78662-78672

Make the Super Circular Useful to You!

- Part 200 – Appendices
  - 11 Appendices
    - **BLUE TAB** each Appendix
      - I – Full text of notice of funding opportunity…pp. 78672-78675
      - II – Contract provisions for non-federal entity contracts under federal awards…pp. 78675-78676
      - III – Indirect (F&A) Cost identification and assignment and rate determination for institutions of higher education (IHEs)…pp. 78676-78682

Make the Super Circular Useful to You!

- Part 200 – Appendices
  - 11 Appendices
    - **BLUE TAB** each Appendix…Continued
      - IV – Indirect (F&A) Costs identification and assignment and rate determination for nonprofit organizations…pp. 78682-78685
      - V – State and local government and Indian tribe-wide central service cost allocation plans…pp. 78685-78687
      - VI – Public assistance cost allocation plans…pp. 78687-78688

Make the Super Circular Useful to You!

- Part 200 – Appendices
  - 11 Appendices
    - **BLUE TAB** each Appendix…Continued
      - VII – States and local government and Indian tribe indirect cost proposals…pp. 78688-78691
      - VIII – Nonprofit organizations exempted from Subpart E – Cost Principles of Part 200…p. 78691
      - IX – Hospital cost principles…p. 78691
      - X – Data collection form (Form SF-SAC)…p. 78691
      - XI – Compliance supplement…p. 78691

Make the Super Circular Useful to You!

- **YELLOW TAB** paragraphs of particular significance to your job or interest
- Highlight specific references as you did in college!
- When you complete this exercise, you are familiar with the document's organization, where to find references, and where to find answers to your questions
- And, you have a much more manageable work too you can refer to in your daily operations.

Focus Items

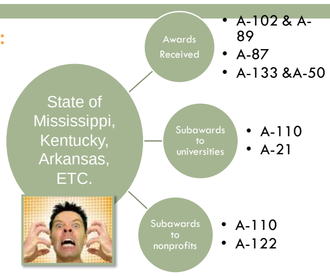
- Consolidation of circulars
- 200.1 through 99 Standard Definitions
- 200.205, Review of risk of applicants
  - Must have framework for evaluating risks
  - Should consider financial stability, performance history, audit reports
- 200.314, Supplies (computing devices)
- 200.320, Procurement Standards
- 200.407, Prior Written Approval

Focus Items

- 200.414, Indirect Costs
  - Must accept approved negotiated rates (some exceptions)
  - 10% of MTDC de minimis IDC
  - One time four-year extension of current approved rate (final and pre-determined rates only)
- 200.430, Compensation – Personal Services
- 200.5XX, Single Audits
  - Higher Threshold (200.501)
  - Better Transparency (200.512)
  - More Focus on Risk (200.518)

Eliminated Duplicative and Conflicting Guidance

Then:



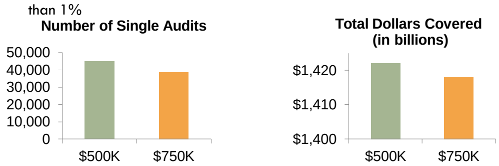
Now: All OMB guidance streamlined in 2 CFR 200.

Sources of Guidance for *Just Cost Principles*

Organization	Federal Cost Principle (PRE 12/26/14 grants)	Federal Cost Principle (POST 12/26/14 grants)	Government-wide guidance
States, Local governments, Tribal Governments	OMB Circular A-87	2 CFR 200 (UAR) Subpart E	ASMB C-10 (HHS) (Medicaid)
Non-profits	OMB Circular A-122	2 CFR 200 (UAR) Subpart E	Federal Agency Guidelines
Colleges and Universities	OMB Circular A-21	2 CFR 200 (UAR) Subpart E	OASC-1 (HHS)
Commercial Organizations and other nonprofits that are exempt from A-122	Federal Acquisition Regulations (48CFR31)	2 CFR 200 (UAR) Subpart E	None
Hospitals	45 CFR 74, Subpart E	2 CFR 200 (UAR) Subpart E	OASC-3 (HHS)

Single Audit Threshold Change

- Increase audit threshold from $500,000 to $750,000
- Based on single audits submitted to the FAC for 2011, there would be approximately 6,300 fewer entities subject to a single audit, but there would only be a reduction in dollars covered of approximately $3.9 billion, or less than 1%



OMB's goal is to concentrate audit resolution and oversight resources on higher dollar and higher risk awards.

Type A Threshold Change

- Groupings are based on dollars — Type A programs are those above the dollar threshold, Type B are those below
  - The minimum threshold is increased from $300,000 to $750,000.

If total federal awards expended is:	Then Type A programs are those with federal awards expended of the greater of
$1 million to $100 million	$750,000 or 3% (.03) of total awards expended
$100 million to $10 billion	$3 million or .3% (.003) of total awards expended
$10 billion or more	$30 million or .15% (.0015) of total awards expended

Percentage of Coverage Requirement

- Supercircular reduces the minimum coverage required as follows:

Type of Auditee	OLD	NEW
Not Low Risk	50%	40%
Low Risk	25%	20%

Streamlining Compliance Requirements?

Compliance Requirements	Current	In DRAFT Compliance Supplement
A. Activities Allowed or Unallowed	✓	✓
B. Allowable Costs/Cost Principles	✓	✓
C. Cash Management	✓	✓
D. Davis – Bacon Act	✓	**Removed *but* Agency could request to be part of N.**
E. Eligibility	✓	✓
F. Equipment	✓	✓
G. Matching, Level of Effort, Earmarking	✓	✓
H. Period of Availability of Federal Funds	✓	**Now Period of Performance**
I. Procurement, Suspension, Debarment	✓	✓
J. Program Income	✓	✓
K. Real Property	✓	**Removed *but* Agency could request to be part of N.**
L. Reporting	✓	**FFATA reporting proposed to be removed, otherwise ✓**
M. Subrecipient Monitoring	✓	✓
N. Special Tests and Provisions	✓	✓

Finding Elements – carried also to new DCF

Impact of New Uniform Guidance

- Eliminates Duplicative and Conflicting Guidance
- Focus on Performance and Internal Controls over Directive Compliance for Accountability
- Provides Framework for Standard Business Processes & Data Definitions
- Promotes Efficient Use of IT and Shared Services
- Requires Consistent and Transparent Treatment of Costs
- Encourages Family-Friendly Policies
- Stronger Oversight & Target Audits on Risk of Waste, Fraud, and Abuse
- Increased Accountability for Effective Resolution of Weaknesses

Stronger Oversight

- Requires mandatory disclosures for conflict of interest and criminal violations
- Requires pre-award review of merit of proposal and risk of applicant
- Federal agencies may assign specific conditions for awards based on risk
- Strong focus on internal controls

Targeting Waste, Fraud, and Abuse

- Single Audit Threshold raised from $500,000 to $750,000 – reducing burden for 5,000 entities while maintaining coverage for 99% of current dollars covered.
- Publication of single audit reports online with safeguards for PII and optional exception for Indian tribes
- Senior Accountable Official to implement metrics and encourage cooperative resolution
- Strong requirement to rely on existing audits first

Organization of the Super-Circular, 2 CFR Part 200 Uniform Guidance

Subpart A	• Acronyms & Definitions
Subpart B	• General Provisions (Section 200.1xx)
Subpart C	• Pre-Award Requirements (Section 200.2xx)
Subpart D	• Post Award Requirements (Section 200.3xx)
Subpart E	• Cost Principles (Section 200.4xx)
Subpart F	• Audit Requirements Section (200.5xx)

Key Elements of Subpart A

- Full set of acronyms and definitions – harmonizing across all former circulars
- Definitions of *cognizant agency* and *oversight agency* for audit (Sections 18, 19 and 73)
- Elevation / Clarification of Tribal Nations (Section 54)
- Definition of Supplies (Section 93) and Equipment (Section 33)

Some Definitions to Know

- Equipment
  - Tangible personal property including IT having a useful life *more than one year*
  - Per unit cost is equal to federal level or higher (or if government sets a lower level – higher than that)
  - Federal level is $5,000
  - General purpose equipment – office furniture, IT etc.
  - Special purpose equipment – research / science only
- Supplies
  - All else including IT less than $5,000
    - MEANING – Smartphones, laptops, tablets etc. now expensed
    - No issue on useful life

What about "Must" and "Should"

- Not in Subpart A as definitions, but used throughout
  - **Must** - indicates requirements
  - **Should** – indicates best practices or recommended approaches that the COFAR wanted non-Federal entities to be aware of, but not necessarily required to comply with (COFAR FAQs III-5)
- Different from AICPA definitions in Audit / Ethics codifications
  - **Must** – unconditional requirement where relevant
  - **Should** – presumptively mandatory, except in rare circumstances (AU-C 200.25) (ET 1.310)

What about Tribal Nations?

- If recognized by federal government, will largely have same provisions as States
  - Cost allocation plans, cognizant agency, allowable / unallowable costs and other provisions all apply
    - Follow special considerations for states, local governments and Indian Tribes in determination of allowable / unallowable costs – See Appendices V and VII to 2CFR200

SUBPART B

Timeline for Rollout – Not Always Fully Understood

- 200.110, Effective Implementation dates
- Federal Agencies must implement effective by 12/26/14
  - **Admin requirements and cost principles** will apply to **<u>new awards</u>**, and to **additional funding increments** made on or after 12/26/14.
  - Existing awards will continue to be governed by the award terms and conditions.
- Audit section, Subpart F. will apply to audits of fiscal years beginning **on or after 12/26/14**, so this will come into play for fiscal year beginning 7/1/2015 (FY 2016).
  - **As existing awards will be governed by award terms and conditions, audit will be using *both* sets of guidance**

What Does this Mean?

- In essence, it is a staggered implementation by EACH GRANT AWARD starting on December 26, 2014
  - Therefore both old and new guidance may be in effect at the same time
    - Grant applications APPROVED after 12/26/14 will be subject to the new provisions
    - Subawards would be subject to grant award provisions in effect at date of subaward by grant
    - Procurements in process will have a one year grace period
      - Example – June 30th year end procurement would be subject to new provisions the year ending June 30, 2016

What Does this Mean?

- Indirect cost rates / plans will remain in place until renegotiated with federal agency
  - Uniform guidance would be used for indirect rate proposals submitted *after* 12/26/14 (example using 2014 information for 2016 rate setting)
- Applications submitted prior to 12/26/14 may reflect uniform guidance if approved after 12/26/14
- Agencies may consider incremental funding after 12/26/14 to be under new guidance
  - Uncommitted / unobligated balances of prior awards may be carried into new awards
- Entitlement awards may change if made after 12/26/14

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What Does this Mean?

- But –
  - Could breed inconsistent application / confusion
  - COFAR is working with a group of states to better implement
- Subawards –
  - 12/26/14 date applies – if prime recipient is under new guidance, so is sub-recipient
- Auditing of Grants
  - 2 sets of potentially conflicting guidance will exist for a number of years until old grants are spent down

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PRE-AWARD PROVISIONS

Subpart C – 2CFR200.200 - .211

What's Going on in Subpart C?

- All provisions of former "Common Rule" (Circular A-102) are contained in subpart C
- Harmonizes award conditions
- Infuses transparency into entire pre-award cycle
  - Posting of notice of funding opportunities
  - Scoring
  - Competitive / noncompetitive provisions

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Key Sections – Subpart C
200.201 Use of Grants (including Fixed Amount Awards), Coop-Agreements and Contracts:

- Federal Agencies must determine appropriate award instrument
- Incorporates new guidance for fixed amount awards
  - Payments based on specific requirements;
  - Accountability based on performance & results;
  - Award amount negotiated using cost principles as a guide;
  - Significant changes require prior approval.
- New guidance appears to imply that 'accountability' at the end of a fixed amount award, *may* require that the amount of the award be adjusted downward accordingly.
- Key Unclear Issue - This could have impacts on when a program is run for *less than was budgeted*. Historically, the grant recipient could retain the residual. Perhaps no longer the case?

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Fixed Amount Awards (200.201)

- Payments are made meeting certain requirements in award based on performance and results
  - Costs incurred do not matter as it's not expenditure driven
  - Milestones / payment provisions agreed upon in advance – may only be one payment
  - Not available in mandatory cost sharing / match situations
  - Certificates of completion required – may be an adjust downward as previously discussed
  - Changes in principal recipient / award investigator etc. must be pre-approved by federal agency

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What will be required for Fixed Amount Awards and Subawards? § 200.201 and .332

- Accountability is Performance Based on Results
- Negotiated price using cost principles as guide
- No governmental review of actual costs incurred
- Project scope specific
- Adequate cost history
- Payments based on milestones
- Significant changes require prior approval

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Public Notice of Federal Assistance (200.202)

- Must be in http://www.cfda.gov – catalog of federal domestic assistance
- Awards must be assigned to program numbers (e.g. 93.778)
- Requirements in Notice
  - Summary program description, goals, performance measurement
  - Discretionary or formula grant
  - Projected total funds available (can use estimates if needed)
  - Statutory authority for grant / source of funds
  - General eligibility requirements
  - Single audit applicability

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Key Sections – Subpart C
200.203 Notice of Funding Opportunities

- Specifies a set of 6 mandatory data elements (standardization) (dovetails onto the DATA act for outcomes)
- Identifies the full text that must be included in funding opportunities, (Appendix I of Part 200)
- Establishes minimum timeframe (60 days) that federal agencies must generally make funding opportunities available to applicants
- For recipients - This could be a good move toward standardizing funding opportunities, and while 60 days lead time is not as good as 90, it is still an improvement
  - Downside could be loss of "political influence"

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Key Sections – Subpart C
200.204 Federal Agency Review of Merit

- This is new requirement, and helps the small or middle size applicants understand the 'playing field'
- Federal agencies must design and execute merit review processes for applications
- The merit review process must be described in the in the funding opportunity (i.e. - transparency to the applicant)
- For Recipients– could be a good addition that allows applicants to fully understand the merit review criteria, and review process – adds transparency

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Key Sections – Subpart C
200.205 Federal Agency Review of Risk

- Federal agencies must have a framework for evaluating risks by applicants, prior to making awards.
- Possible risk items considered by the agencies
  - Financial stability
  - Quality of financial management systems
  - History of performance
  - Audit reports and findings
  - Applicants' ability to implement effective systems
- For Recipients – Now more than ever, work on timely reporting, timely clean up of audit findings, internal controls etc.

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200.210 Grant Award Information

- Grant awards will include:
  - Award number
  - Recipient name
  - DUNS
  - Award date
  - Performance start / end dates
  - Funds / budget information
  - Cost sharing / matching requirements
  - Project information
  - Contact information
  - CFDA number
  - Indirect cost rate
  - General terms and conditions
  - Program provisions / performance goals

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200.208 – Certifications , .209 Pre-Award Costs , & .211 Public Notice

- Required now in accordance with federal statutes – (in other words – pains and penalties..)
- Pre-award costs allowable only if necessary and approved by the federal agency in advance
- Once award is made – public document
  - Announcement in accordance with Federal Financial Accountability and transparency Act (FFATA)
  - Posted on http://www.usaspending.gov and FOIA-able..

Key Sections – Subpart D 200.303 Internal Controls

- Recipients required to have internal controls in place that comply with federal statutes and regulations
  - Institutions and their auditors will need to review
- Suggestions included for sources of internal controls
  - "Standards for Internal Control in the Federal Government" (Green Book) issued by the Comptroller General
  - "Internal Control Framework" issued by the Committee on Sponsoring Organizations (COSO)
  - Appendix XI, Compliance Supplement – Part 6 Internal Control (which currently follows COSO but will consider both the Green Book and COSO in the 2015 update (200.514(c)(1)))

200.308 Revision of Budget – Program – Plans & 200.309 Period of Performance

- If budget changes, must report to federal agency
- Non-construction awards need prior approvals if:
  - Change in scope / objective in project / program
  - Change in key person
  - Project / program administrator doesn't work on the project for more than 3 months or time declines by 25%
- Can seek waivers / changes / extensions
- Construction awards, prior approval also needed for similar, but adding rise in costs
- Allowable costs only can be during the period of performance

200.317 Procurement policies

- Procurement policies / procedures / law for Recipients must be the same for federal and non-federal activities
  - If procurement policy / procedure / law has lower thresholds, more scrutiny than federal provisions, policy / procedure / law continues as it exceeds federal policy (see .320)
    - If doesn't –policy / procedure / law may need to be changed
      - **Good idea to review as soon as possible**

Will Recipients Need to Revise Procurement Policies?§ 200.317-326

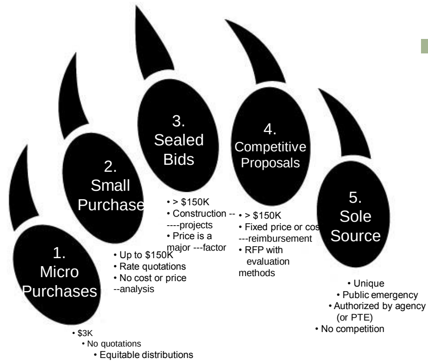
- Conflict of Interest expanded to organizational conflicts
- State and local intergovernmental purchases
- Contractor responsibility determinations
- Enhanced documentation requirements
- Micro Purchasing procedures
- Time and Material contracts restricted
- New criteria for sole source procurements
- Noncompetitive contracts to consultants are restricted
- Independent contract and profit estimates

Key Sections – Subpart D 200.320 Methods of procurement

- A prescriptive list of 5 procurement methods is provided
  - Micro-purchases, small purchase procedures, sealed bids, competitive, sole source
- A "micro-purchase" category is introduced, which appears to be the threshold (up to \$3,000) (\$2,000 for Davis Bacon) for which competition would not be required
- By default, is implied that purchases > \$3K would require competition
- Sole source justification definition is updated
- For Recipients - This new guidance will need to be reviewed by Purchasing and Disbursements for alignment of guidance vs. policy / law

Procurement "Claw" (Sections 200.317-326)

Procurement "Claw" (Section 200.320)



Sub-recipient vs. Contractor 200.330 / Fixed Amount Subawards.332

- Not much change in definition of Sub-recipient
- Governments can be Prime Recipients or Sub-Recipients or Contractors
- Primes are responsible for sub-recipients as
  - Prime recipients determine who is eligible to receive federal grant
  - Primes have performance measured by the federal agency – therefore the sub also will have performance measures
  - Primes have responsibility for program decision-making
  - Primes have to adhere to federal grant conditions
  - Primes have to carry out purpose of grants

Sub-recipient vs. Contractor 200.330 / Fixed Amount Subawards.332

- Contractors
  - Provides goods and services as part of normal business operations
  - Similar goods and services provided to many purchasers
  - Normally operates in competition with others
  - Provides goods / services ancillary to federal operations
  - Not subject to compliance requirements as a result of the agreement, but may have other requirements
- Judgment is needed on sub-recipient vs. contractor
- Pass-throughs to sub-recipients may be in fixed amount awards

Increased burden and cost for Recipients to manage subrecipients.§200.330

- Policies and procedures need to change
- Subrecipient risk assessment required
- Significant increase in terms of subrecipient agreements
- Expected to negotiate indirect cost rates
- Training and technical assistance
- Monitoring techniques suggested

Key Sections – Subpart D 200.331 Subrecipient Monitoring

- Guidance is seemingly improved; use the subrecipient's negotiated rates, or subrecipients without a negotiated rate can get an automatic 10% MTDC rate.
- Agency must grant prior approval for issuing fixed price subawards
- New maximum limit for fixed price subawards $150K (Simplified Acquisition Threshold)
  - Potentially more risk assessment burden for State though as audit threshold increases to $750K, time will tell
  - Recipients should review the guidance vs. current subrecipient programs and will make adjustments, as needed
- All reporting elements carried from ARRA reporting

SUBPART E –
COST PRINCIPLES (ONLY SOME OF THEM!)

Warning About Hospital Cost Principles

- UAR has a specific, temporary exemption in Appendix IX –

  Based on initial feedback, OMB proposes to establish a review process to consider existing hospital cost determine how best to update and align them with this Part. Until such time as revised guidance is proposed and implemented for hospitals, the existing principles located at 45 CFR Part 74 Appendix E, entitled "Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals," remain in effect.
- Keep in mind for next segment of slides

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Warning – Joint Interim and Final Rule

- Joint Interim and Final Rule (JI&FR) released in December 2014 provides the regulatory language explaining each federal agency's implementation provisions of the UAR.
- Cost provisions over the next few slides are noted if slight variations in the JI&FR

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Basic Principles of Cost (200.400)

- Sound management principles are a given
- State has responsibility to administer the funds consistently and account for them as such
- Accounting principles must be consistent and cost principles include documentation supporting the accumulation of costs
- Review, negotiation, approval of cost allocation plans will focus on this consistency
- The recipient cannot make a profit off of the federal government

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Application of Cost 200.401

- Approved cost allocation plans used for
  - Fixed price contracts and subcontracts
  - Loans, scholarships etc.
  - Fixed amount awards
  - Federal awards to hospitals
  - Other awards where recipient is not required to account for actual cost incurred (allocated costs used)

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Composition of Costs 200.402 - Basic Formula

Allowable direct costs +

Allocable indirect costs –

<u>Applicable credits</u> =

<u>Total Cost</u>

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Allowable Cost Factors (200.403)

- Allowable Costs in general
  - Necessary and reasonable for performance of federal award
  - Conform to any limitations or exclusions set in federal award
  - Consistent, uniform
  - Applied consistently
  - Determined in accordance with GAAP
  - Not included as cost or used to meet cost sharing or matching
  - Be adequately documented

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Reasonableness (200.404) and Allocable Costs (200.405) and Credits (200.406)

- Reasonable costs are
  - Ordinary and necessary for the performance under the grant
  - Must have sound business practices including arms-length bargaining
  - At market prices for comparable goods / services
  - Prudently agreed upon
- Allocable costs are
  - Incurred for the federal award
  - Able to be distributed proportionally
  - Necessary to the overall award
  - Not used to fund deficiencies
- Credits
  - May reduce expense items through rebates, refunds, discounts etc.

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Key Sections – Subpart E 200.407 Prior Written Approval

- New section clarifies that in order to avoid disallowed costs, recipients can seek prior approval of the agency
- One stop section that provides a comprehensive list of circumstances for which we can seek prior approvals
- *This section is key for the incurrence of unusual costs or costs that fall in a grey area*

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Key Sections – Subpart E 200.414 Indirect Costs

- Federal acceptance of approved IDC rates
  - Federal awarding agency must accept approved negotiated IDC rates, unless otherwise required by federal statute, regulation, or when approved by agency head or delegate.
- New de minimis rate of 10% for entities that do not have negotiated rates
- Any non-federal entity that has a federally negotiated rate may apply for a one time extension, for a period up to 4 years.
- For Recipients – These updates generally seem to be helpful to grant recipients, particularly the de minimis rate when working with Subrecipients that don't have negotiated rates
  - For complex programs with multiple rates, better tracking may be needed of rates, especially with subrecipients

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Indirect Cost Rate Proposals and Cost Allocation Plans (200.414)

- Must accept negotiated rate if there is one
- Develop and submit indirect cost rate proposal and cost allocation plan as specified in:

  Appendix V – State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans

  Appendix VII – States and Local Government Indian Tribe Indirect Cost Proposals
- Any non-Federal entity that has never received a negotiated indirect cost rate (except for those w/ >$35 million in direct Federal) may elect to charge a de minimis rate of 10% MTDC. [200.414(f)]

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Key Sections – Subpart E 200.415 Certifications

- Annual and final fiscal reports or vouchers requesting payment must include a certification signed by an official who can **legally bind** the State
- More strongly worded certification language that introduces **potential penalties** under the false claims act, for fraudulent information for omission of material facts

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What About Compensation and Executive Compensation? (200.430)

- §200.430 and .431 (Benefits) will be highly scrutinized by federal agencies in the pre-award, post-award process
  - Strengthens requirements of internal controls over compensation
  - Flexibility allowed in systems / reporting for implementation
  - Federal agencies can approve alternative methods for accounting and reporting as long as standards are met and performance outcome measures (set by federal agency as part of federal award) are met
    - Funding still can be from multiple programs as part of compensation and use alternative time / effort reporting
- Sub-award / sub-recipients must follow same plan
- Reporting to continue, especially under DATA act

What About Compensation and Executive Compensation (200.430)?

- Compensation includes
  - All remuneration, currently *or accrued* for services rendered during the award period
    - Not always wages and salaries – also includes fringe benefits (see later)
- Compensation must be
  - Reasonable for services rendered
  - Conforms to written policy consistently applied (as to not unfairly burden the federal government)
  - Follows an appointment made in accordance with non-federal entity's policies / procedures / laws etc.
  - Determined and supported (see later)

What About Compensation and Executive Compensation?

- What is Reasonable?
  - Consistent with that paid for similar work in other activities of the recipient
    - If no similar activities – than reasonableness is determined by the local labor market
- Outside work / external consulting while compensated from federal funds is up to policy / procedure but must be approved by federal agency in advance
  - May require further allocation so that federal agency is not unfairly charged
- Unallowable compensation
  - Consistent with other unallowable costs
  - Statutory ceilings may apply in various federal laws
- Changes in policy allowed as long as no unfair burden

What About Compensation and Executive Compensation?

- Incentives / Bonuses
  - *Allowable* as long as based on cost reductions, efficiency, suggestions, safety awards as long as
    - Reasonable
    - Entered into between management and the employees prior to services rendered
    - Consistently applied

What About Compensation and Executive Compensation?

- Nonprofits
  - Similar tests apply – reasonableness, consistency and for services rendered, rather than distributions of surpluses
- Higher Education
  - Reasonable amounts broadened due to nature of HE
    - Includes research, lecturing, many others
    - Institutional Base Salary (IBS) must be established in policy
    - Again, charge to federal award must be done fairly
    - Detailed provisions for extra pay, sabbaticals, part-time faculty, administrators

What About Compensation and Executive Compensation?

- Documentation
  - Must accurately reflect work performed – musts:
    - Supported by system of internal controls that provide reasonable assurance of proper charges, allocation, allowable costs
    - In official books and records
    - Reflect activity of employee - can't be more than 100% of time (federal + nonfederal allocation)
    - Consistently applied based on policies / practices
    - Supported by indirect cost rate / cost allocation plan (if applicable)

What About Compensation and Executive Compensation?

- Documentation
  - Budget estimates *may* be used for interim reporting provided that
    - System gives reasonable approximations of work performed
    - Significant changes (budget : actual) are entered into the system as soon as known (Short term fluctuations of one or two months is OK as long as reasonable over longer term)
    - Adjustments made to actual reflect accurate, allowable and properly allocated costs
  - Special provisions for higher education

  As long as standards of documentation met, no additional reporting necessary unless required by federal award
  - Salaries and wages used in cost sharing of federal awards must be in same manner as those claimed as allowable costs

What About Compensation and Executive Compensation?

- Alternative Systems / Documentation may include
  - Random moment sampling
  - Time studies
  - Case counts
  - TANF / SNAP / Medicaid must include
    - All salaries wages
    - Time period
    - Statistically valid sample
    - Allocations of administrative / overhead acceptable
  - Others may be acceptable as long as federal agency concludes it is not unfairly burdened
  - Cognizant agencies may approve based on outcomes / milestones
- If all else fails – personnel activity reports may still be required by federal agency

Key Sections – Subpart E 200.431 Fringe Benefits

- Family related leave is allowable
- Change in accounting for unused leave? Impacts on Fringe rates?
- Severance Pay is clarified and introduces categorizations of normal severance pay and; mass or excessive severance pay.
- Cash *or Accrual* accounting is allowable as long as it is consistently followed
  - *Accrual basis* aligned with GAAP throughout section
  - Allowable leave is the *lesser* of amounts accrued or funded

200.436 Depreciation

- No more use allowance
  - When replacing use allowance with depreciation method, depreciation must be computed as if asset has been depreciated over its entire life
- Charges must be supported by adequate property records and physical inventories (taken at least every 2 yrs) to ensure assets useable, used and needed
- Must maintain records showing that adequate depreciation taken

200.439 Equipment and Other Capital Expenditures

- Removed language stating that equipment and other capital expenditures are unallowable as indirect costs
- If instructed by federal awarding agency to dispose of or transfer equipment, then cost of such disposal or transfer is allowable

200.449 Interest

- Following conditions must be considered when determining allowability of interest:
  - Entity uses capital assets for federal award
  - Facilities/equip. costs limited to FMV via unrelated party
  - Financing obtained via an arm's length transaction
  - Interest costs result from least expensive financing alternative
  - Interest costs expensed/capitalized in accordance with GAAP
  - Earnings generated by investment of borrowed funds used to offset current interest costs
  - Conditions for debt arrangements over $1 million to purchase or construct facilities are followed
  - Interest from fully depreciated asset is unallowable

200.452 – Maintenance and Repairs

- If neither add to the permanent value of the property nor appreciably prolong life, but keep in an efficient operating condition, are allowable.
- Improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures
  - Only allowable to the extent not paid through rental or other agreements.

174

Key Sections – Subpart E 200.453 Materials and Supplies

- Material and supplies section now <u>specifically includes 'computing devices' as an allowable direct cost</u>.
- 'In the specific case of computing devices, charging as direct costs is allowable for devices that are ***essential*** and ***allocable***, ***<u>but not solely dedicated</u>***, *to the performance of a federal award.'*
- For Recipients, this clarification is extremely helpful in acknowledging that computing devices are an allowable supply cost. "But not solely dedicated" phrase will likely have some FAQs.

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Key Sections – Subpart E 200.474 Travel Costs

- Temporary dependent care costs above and beyond regular dependent care that directly results from travel to conferences, is allowable provided:
  - Cost is direct result of individual's travel for the federal award,
  - Cost is consistent with non-federal entity's travel policy for all travel (not just sponsored), and
  - Cost is only temporary during the travel period
- For Recipients - travel policies should be evaluated for current and future practices, as the Uniform Guidance requires consistent treatment between federally funded programs and non-federal programs.

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Independent Research and Development

- **HHS** Guidance only
  - Not sponsored by Federal or non-Federal awards, contracts, or other agreements.
  - Allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development.
  - The cost of independent research and development, including their proportionate share of indirect costs, **are unallowable**

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SUBPART F - AUDIT

(As Far As We Know)

Single Audits – Uniform Guidance - The Most Important Items to Understand for 2015

- Timing of Requirements
  - 2015 single audits performed under Circular A-133 affected
  - New Uniform Guidance Audit Requirements (Subpart F) **do not kick in until 12/31/15 year-end single audits**
  - Effective date to be challenging for compliance testing (i.e., timing of implementation of Uniform Guidance Subparts A-E).
- 2015 OMB *Compliance Supplement*

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Single Audit – Uniform Guidance Effective Dates/Timing

- Year-ends ending after December 26, 2014 and before December 26, 2015 (e.g., March 31, 2015, June 30, 2015, and September 30, 2015 year-ends)
  - Non-federal entities will have to adopt new administrative requirements and cost principles relating to all new federal awards and to funding increments to existing awards
  - Single audit requirements continue to use "old" regulation (i.e., OMB Circular A-133)
  - Auditor compliance testing will be affected by client adoption of "new" UAR regulation (i.e., will likely have to test some awards subject to the "old" OMB Circulars and some the "new" UAR regulation)
- December 31, 2015, year-ends and beyond
  - New single audit requirements (subpart F) apply
  - Auditors may have to test some awards subject to the "old" OMB Circulars and some the "new" UAR regulation for several years

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Single Audit –Effective Date/Timing and Funding Increments (COFAR FAQ .110-13 and 13)

- **Remember -**
  - UAR applies to funding increments to existing awards in cases where the federal agency considers the funding increments to be an opportunity to modify the terms and conditions of the award.
  - Existing federal awards that do not receive incremental funding with new terms and conditions will continue to be governed by the terms and conditions of the federal award.
  - Subrecipients and subawards must follow the same guidance as prime recipients

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Key Sections – Subpart F Audit Section Focuses on Risk

- Increased audit threshold from \$500k to \$750k
- Moves toward a risk-based approach
- Greater transparency of audit results (*i.e.- single audit reports made available to the public online*)
- Increased agency use of the single audit process by agencies
- Subrecipient monitoring
  - Federal award information, including data elements required by DATA / FFATA must transfer to subrecipient
  - Seems to be more stringent
    - Follow up on all deficiencies pertaining to federal awards must be done timely
    - Potentially more risk assessment burden (alluded to in Subpart D)

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Key Sections – Subpart F Audit Section Focuses on Risk

- Minimum threshold for type A/B determination raises to \$750k from \$300k – other changes
  - Major program determination formula
  - % of coverage based on risk (50-40% high risk) (25% - 20% low risk)
  - High risk program if known or likely questioned costs lowered to 5% of total federal awards
  - Known questioned costs raised to \$25k from \$10k
  - Finding formatting

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Key Sections – Subpart F Audit Section Focuses on Risk

- Unclear at this point
  - Cross-cutter's – What's in? What's out? Are we at the more things change…?
  - What is the concise definition of "waste" and "abuse"?
  - What will the audit tests be by cross-cutter and program?
- For Recipients – key changes will be in audit tests and more aggressive subrecipient monitoring

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Compliance Supplement Continues to Include Testing on (where applicable)

- Activities allowed or unallowed
- Allowable costs / cost principles
- Cash management
- Eligibility
- Equipment and Real Property Management
- Matching, Level of Effort, Earmarking
- Period of Availability (Period of Performance in 3.2)
- Procurement and Suspension and Debarment
- Program Income
- Reporting
- Subrecipient Monitoring
- Special Tests and Provisions

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Summary

Impact of New Uniform Guidance

- Eliminates Duplicative and Conflicting Guidance
- Focus on Performance and Internal Controls over Directive Compliance for Accountability
- Provides Framework for Standard Business Processes & Data Definitions
- Promotes Efficient Use of IT and Shared Services
- Requires Consistent and Transparent Treatment of Costs
- Encourages Family-Friendly Policies
- Stronger Oversight & Target Audits on Risk of Waste, Fraud, and Abuse
- Increased Accountability for Effective Resolution of Weaknesses

Administrative Requirements for Recipients

- Consolidation of administrative requirements of OMB Circulars A-102 and A-110 into a uniform set of administrative requirements for all grant recipients
  - Basis appears to be A-110 except for procurement which aligns with A-102
- Clarification federal expectations for pass-through entities
  - Consolidates and clarifies subrecipient monitoring
  - Indicates that all subawards shall include a provision for indirect costs
    - Either negotiated or a de minimis rate of 10%

Federal Agency Requirements

- Use standard format to announce funding opportunities, including:
  - Eligibility or qualification information
  - Clear description of all criteria used in agency review of applications
  - Disclosure of special terms and conditions
- Make all solicitations available for application for at least 30 days unless required by statue or unless exigent circumstances dictate otherwise
- Consider risk (financial stability, management systems and history of performance) associated with each applicant prior to making award
  - Risk assessment may impact terms and conditions
- Designate "single audit accountable official" to oversee single audit process
  - Separate from single audit coordinator

Performance Over Compliance for Accountability

- Emphasis on strong internal controls and reduction in specific compliance requirements
  - Example: Specific examples of justification for salaries and wages eliminated for more flexibility in implementing a strong system of internal controls
- Alignment with M-13-17 encouraging innovative program design based on evidence
- Performance measurement aimed at developing lessons learned
- Fixed amount awards aimed at performance milestones

Consistent and Transparent Treatment of Costs

- Voluntary Committed Cost Sharing is not expected under research awards
- Pass-through entities must provide an indirect cost rate for subawards
- Standards for treating admin costs as direct
- High bar for circumstances where agencies may deviate from Federally negotiated rates
- Option to extend rate for up to 4 years
- De minimis rate of 10% of MTDC for entities without a Federally negotiated rate

Standard Business Processes & Data Definitions

- Sets framework for standardizing data definitions in all grants-related forms government-wide
- Standardizes format for notices of funding opportunities w/60 days to apply
- Standardizes Information to be provided in all Federal Awards and Subawards
- Highlights areas where specific agency approval is needed

Family-Friendly Policies

- Where consistent with non-Federal entity policy:
  - Allows costs of conference hosts to identify locally available child care
  - Allows temporary dependent care costs that meet specified standards for travel
  - Allows family leave as a fringe benefit

Stronger Oversight

- Requires mandatory disclosures for conflict of interest and criminal violations
- Requires pre-award review of merit of proposal and risk of applicant
- Federal agencies may assign specific conditions for awards based on risk
- Strong focus on internal controls

Targeting Waste, Fraud, and Abuse

- Single Audit Threshold raised from $500,000 to $750,000 – reducing burden for 6,300 entities while maintaining coverage for 99% of current dollars covered.
- Publication of single audit reports online with safeguards for PII and optional exception for Indian tribes
- Senior Accountable Official to implement metrics and encourage cooperative resolution
- Strong requirement to rely on existing audits first

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What do you see?

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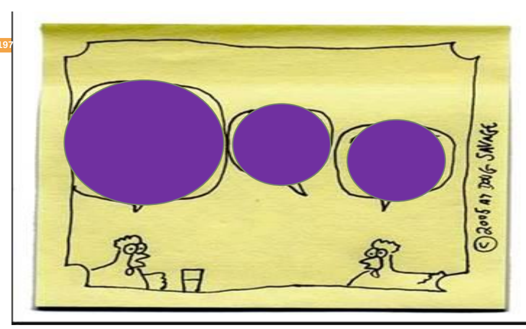

Online Resources

- www.cfo.gov/wp-content/uploads/2013/01/2-C.F.R.-200-FAQs-2-12-2014.pdf
- www.cfo.gov/cofar
- www.whitehouse.gov/omb/grants (select grant reform)
- www.whitehouse.gov/omb/financial_default/
  (OMB Office of Federal Financial Management)
- https://www.agacgfm.org/Resources/Online-Library/Intergovernmental-Reports.aspx
  (Association of Government Accountants tool kits)

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QUESTIONS?
DUDE, SERIOUSLY?

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