EDD COMMUNITY OF PRACTICE: FEDERAL GRANT COST ALLOWABILITY 101

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Presented by
Bob Lloyd

EDD COMMUNITY OF PRACTICE—FEDERAL GRANTS MANAGEMENT

OMB's "Uniform Guidance"

Uniform Administrative Requirements, ***Cost Principles****, and Audit Requirements for Federal Awards*

Title 2, Code of Federal Regulations, Part 200 (2 CFR 200)

Original adoption: Effective December 26, 2014

--- Combined OMB Cost Circulars Applicable to Different Performers

Minor Revision: Effective November 12, 2020

Major Revision: Effective October 1, 2024

A FEW THINGS TO KNOW ABOUT OMB

Their Audience: Federal Agencies

Their Approach to the Current Revision

--- Selective Acceptance of Comments (89 FR 30046 et seq.)

----- “Outside of Scope”

----- “Not Necessary”

----- Will Consider “Later”

Trump Administration Grant Initiatives (On and After 1/20/25)

--- Director Russell Vought

--- Department of Government Efficiency (DOGE)

--- “Government by Horror Story”

--- Full Range of Grant Reduction Tools

FEDERAL COST PRINCIPLES

Currently Applicable to Federal Awards Received by Various Types of Performers

--- State, Local and Tribal Governments (2 CFR 200, Subpart E)

--- Institutions of Higher Education (2 CFR 200, Subpart E)

--- Nonprofit Organizations (2 CFR 200, Subpart E)

--- Hospitals (2 CFR 200, Appendix IX)

--- Commercial Organizations (48 CFR 31)

Federal Awards (Grants, Cooperative Agreements, and Contracts)

Rules for Determining:

--- What Costs Can Be Charged to Federal Awards

--- What Costs Cannot Be Charged to Federal Awards

--- How Costs Are to Be Documented

USED EARLY AND OFTEN IN FEDERAL GRANT AWARDS

Determination of Award Instrument—Decision by Awarding Agency Concerning Cost Type of Fixed Amount Award

Application—Requirement for Inclusion of Allowable Costs Only in Submission

Cost Analysis of Grant Budget (Necessary, Reasonable, Allocable Cost)

Award Agreement—Approved Budget

--- Unique Approach for Fixed Amount Awards (2 CFR 200.201(b))

Expenditure of Funds—Determination of Allowability by Awardee

Financial Reporting—Certification and Submission of Claims

Monitoring, Closeout, Audit—Acceptance of Claims by Awarding Agency

HOW THE PRINCIPLES FIND THEIR WAY TO YOU

Federal Agency Regulatory Adoption of 2 CFR 200, Subpart E

Federal Awarding Agency Inclusion of 2 CFR 200, Subpart E in Primary Award Agreement (2 CFR 200.211)

Pass-through Entity "Flow-through" of Requirements Imposed by Federal Awarding Agency into Subaward Agreement (2 CFR 200.332(a))

References

--- 2 CFR 200, Subpart E

--- 2 CFR 200.400-476

KEY BASIC CONCEPTS

Policy Guidance

---Recipient and Subrecipient Responsibility for Employing Sound Management Practices

--- Recipient and Subrecipient Autonomy Related to Organizational Structure, Staffing and Management

--- Recipient and Subrecipient Prerogatives Related to Charging Practices (Direct vs. Indirect)

--- No Profit in Federal Assistance Awards (As Distinct from Acquisition or Procurement Awards)

Total Recovery under a Federal Award

--- Allowable Direct Costs *Plus* Allocable Allowable Indirect Costs *Minus*

Applicable Credits

DIRECT VS. INDIRECT COSTS

Terms of “Accounting Convenience”

Direct Costs

--- Identified “specifically” with an award

--- Assigned “relatively easily with a high degree of accuracy”

Indirect (F&A) Costs

--- Necessary for overall operations

--- Difficult to show benefit to specific awards “without effort disproportionate to the benefit received”

Charging practice determined by recipient or subrecipient

THE GENERAL TESTS OF ALLOWABILITY

Necessary

Reasonable

Allocable

Conform to (Properly Imposed) Limitations

Consistent with Organizational Policies Uniformly Applied to All Activities

Consistently Treated (Direct vs. Indirect)

Determined in Accordance with Generally Accepted Accounting Principles

(GAAP)

--- Some Exceptions for Governmental Units

Not Charged Elsewhere

Incurred Within the Budget Period

--- Exception for Closeout Costs

Adequately Documented

REASONABLE COSTS

"Prudent Person" Test

Factors Affecting "Reasonableness"

--- Ordinary and Necessary Expense

--- Use of Sound Business Practices

--- Incurred by Arm's Length Bargaining

--- Adherence to Federal , State, Local, Tribal and Other Laws and Regulations

--- Facts and Circumstances

--- Unjustified Deviations or Exceptions

What's Missing?

--- Practices of the Federal Government

ALLOCABLE COSTS

Costs Incurred Exclusively for the Federal Award

Costs Incurred to Benefit the Federal Award and Other Activities if the Recipient or Subrecipient That Can Be Distributed in **Reasonable Proportion** to the Benefit Received (Common Costs)

Costs Necessary for Overall Operations But For Which a Direct Beneficial Relationship is Difficult to Show **Without Disproportionate Effort** (Indirect Costs)

--- Heard Often: “Close Enough for Government Work”

YOUR GRANT OR SUBGRANT BUDGET

"The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process." (2 CFR 200.308(a))

Recipient Responsibilities

--- Exercise Budgetary Control (2 CFR 200.302(b)(5))

--- Determine Cost Allowability (2 CFR 200.302(b)(7))

----- Dealing with the "Unbudgeted" Costs

--- Report Budget Deviations (2 CFR 200.308(b))

--- Request Certain Prior Approvals (2 CFR 200.308 (c) and (f); 2 CFR 200.407)

THE "SELECTED ITEMS OF COST"

2 CFR 200.421-476

55 Items Selected

Rationale

--- Commonly Encountered

--- Specifically Disallowed

--- Relevant to a Particular Class of Award Performers

COST PRINCIPLE INTERPRETATION 101

2 CFR 200.420

"Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment provided for similar or related items of cost…"

"Criteria outlined in [2 CFR 200.403], *Factors affecting allowability of costs* must be applied in determining allowability."

Bases for Allowability

--- Explicit Mention in 2 CFR 200.421-476 (*Selected Items of Cost*)

--- Principles Applicable to Similar or Related Items

--- Treatment in Other Cost Principles

--- Reliance on the General Tests of Allowability

A CLOSE LOOK AT THE "SELECTED ITEMS"

Allowability Distinctions

--- Allowable

--- Allowable Under Certain Circumstances

----- Allowable with Prior Approval

----- Allowable with Approval

--- Unallowable

SOME UNDERSTANDABLE COST GROUPINGS

Likely Expenditures by Most Awardees

--- Object Class/Budget Categories listed on the SF 424A

----- Personnel

----- Fringe Benefits

----- Travel

----- Equipment

----- Supplies

----- Contractual

----- Construction

----- Other

OTHER COST GROUPINGS

Similar Expenditure Purpose

--- Facility Related Costs

--- Human Resources

Similar Allocability

--- Certain Performers (Governments, IHE's, NPO's)

Unallowable

--- No Benefit to Federal Award

--- Indicative of Poor Management

COST POLICY IMPACT OF 2024 CHANGES

Allowability of Close-out Costs (2 CFR 200.403(h))

Prior Approval Definition (2 CFR 200.1)

--- Four Elements

--- Inclusion of Costs Requiring Prior Approval in the Approved Budget or Award (2 CFR 200.308(a))

--- Pass-through Entity Authority

--- Waiver Authority

Reduction in Number of Prior Approval Actions (2 CFR 200.407)

--- Elimination of Reference to “Advance Understanding”

--- “…under certain circumstances…”

--- Equipment Definition

----- Acquisition (2 CFR 200.439)

----- Disposition (2 CFR 200.313)

--- Selected Item Edits

INDIRECT COST RECOVERY ISSUES

Problematic policy for governmental entities with < $35 million in direct federal awards annually

Required Acceptance of Federal NICRA’s

--- Federal Agency “Escape Hatch” (2 CFR 200.414(c))

Increase in *De Minimis* Indirect Cost Rate—Up to 15% of MTDC

--- Silence on Transition

Forced Imposition of *De Minimis* Rate

--- “Recipients and subrecipients have a right to negotiate a rate (89 FR 30093)

OMB Role in Indirect Cost Disputes Between Recipients and Cognizant Agencies

A FEW FINAL SUGGESTIONS AND CAUTIONS

Every one remains in a “learning curve”

There is no *effective* substitute for a “deep dive”

Use the “lingo” of the cost principles document when communicating with awarding agencies

--- “In accordance with…”

Consider awarding agency motivations

--- Cost savings

--- “Horror story” avoidance

Beware of audit vulnerabilities

--- Risk factors (2 CFR 200.519)

--- Newness and changed conditions