Top Areas of Noncompliance
Regarding Policies and Procedures

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Areas of Noncompliance

- Lack of written policies and procedures
- Policies and procedures not followed or enforced
- Conflict of Interest
- Cash Management
- Allowability
- Procurement
- Inventory
- Records
- Internal controls

Lack of Written Policies and Procedures
Audit Findings

- Philadelphia School District's Controls Over Federal Expenditures (January 2010)
  - “PSD did not have written policies and procedures for various fiscal processes.”
- The School District of the City of Detroit’s Use of Title I Part A Funds Under the No Child Left Behind Act of 2001 (July 2008)
  - Time and Effort
  - Allowability

What category do you fall into?

- No policies and procedures
- Some policies and procedures
- Existing policies and procedures need updating
- Started updating existing policies and procedures, but got sidetracked…

Logistics

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

Annually review and revisit!
Where to start?

- Determine goal
- Internal document or for subgrantees?
- Grant specific or cross-cutting?
  - Ex) Perkins program specific or Fiscal/Grants management
- Create a team – include both fiscal and programmatic personnel (very important)
- Create a table of contents
- Assign subjects to appropriate personnel
- Create realistic timeline for completion

Where to start?

- Collect existing documentation (include in appendix, if helpful)
  - Memos
  - Emails
  - Forms
  - Job descriptions
- Go directly to the source – the staff member(s) that perform the tasks related to the policies and procedures you are creating

Things to Consider:

- Buy-in from those who will be using the policies and procedures
- Review for accuracy, completeness and compliance
- Adoption by board or other governing body
- Training employees
- Implementation
Resources

- Uniform Grant Guidance
- OMB Circulars
- Education Department General Administrative Regulations (EDGAR)
- Authorizing statute
- Program regulations
- Program guidance
- State and agency rules, regulations, policies and procedures

Policies and Procedures Not Followed or Enforced

Audit Findings

- Philadelphia School District's Controls Over Federal Expenditures (January 2010)
  - “Policies and procedures were not adequate and/or not enforced.”
Ensure Documented Policies Reflect Actual Practice

- Regular review and revision
  - Practices change, systems are updated
- Staff training
  - New hires and for existing staff
- Detailed procedures
  - Policies = goals
  - Procedures = steps that ensure goals are met

Conflict of Interest

- Alabama: Use of Funds and Data Quality for Selected Recovery and Reinvestment Act Programs (February 2012)
  - Alabama Department of Education's director of Federal programs participated in the process that awarded more than $24 million in School Improvement Grants funds to three LEAs that listed her husband's employer, Information Transport Solutions, Inc., as a contractor.
Conflict of Interest

- Must maintain written standard of conduct, including conflict of interest policy.

2 CFR § 200.318(c)(1)

Conflict of Interest - Federal Definition

- Conflict of Interest = when any of the following has a financial or other interest in or a tangible personal benefit from a firm considered for a contract:
  1. Employee, officer or agent
  2. His/her immediate family member
  3. His/her partner
  4. An organization which employs or is about to employ any of the above.

2 CFR § 200.318(c)(1)

- Not broad enough?

Gratuities Policy

- Prohibition against soliciting or accepting gratuities, favors, or anything of monetary value from contractors or parties to subcontracts
- May set standards in which the financial interest is not substantial or the gift is an unsolicited item of nominal value
- Consider including examples

2 CFR § 200.318(c)(3)
Disciplinary Actions

• Written standards must provide for disciplinary actions for violations of the conflict of interest policies.

2 CFR § 200.318(c)(2)

Best Practice

• Conflict of Interest Certification Form
  • Require all employees to sign yearly and/or prior to being involved in procurement or grant award process
  • Reporting chain, including alternate
  • Recusal
  • Training

Cash Management
Audit Finding

- The North Carolina Department of Public Instruction’s Administration of its Race to the Top Grant (July 2015)
- North Carolina did not ensure that Forsyth County minimized the amount of time elapsed between the receipt and disbursement of Race to the Top funds.

Written Cash Management Procedures

- Must have written procedures to implement the requirements of Section 200.305 Payment
  2 CFR § 200.302(b)(6)

Clarify Terminology

- Obligation
- Liquidation
- Drawdown
- Payment
- Encumber??
Payment Methods

- Describe process used under various payment methods:
  - Advance payment
  - Reimbursement
  - Working capital advance

Best Practices

- Include information on:
  - Your accounting system(s)
  - How budgets are loaded onto system
  - Process for comparing budgets to expenditures
  - Process and authorizations for budget revisions
  - Period of performance and when obligations are made
  - Process for carryover

- Program income
- Cost sharing/matching
- Incorporate state/agency requirements

Allowability
Audit Finding

• Philadelphia School District's Controls Over Federal Expenditures (January 2010)
  • We determined that PSD's accounts payable process was not adequate. The process was not adequate because it did not include a review of expenditures for allowability or require that proper supporting documentation be obtained prior to payment from grant funds. Also, PSD did not have written accounts payable policies and procedures. The written guidance that was available, entitled "Managing Your Grant" and "Pre-Audit of Payment Vouchers," was not adequate because it did not address expenditure allowability and reasonableness or documentation requirements.

Determining Allowability

• Must have written procedures for determining allowability of costs in accordance with Subpart E - Cost Principles and terms and conditions of federal award

2 CFR § 200.302(b)(7)

Written Allowability Procedures

• Not a restatement of Subpart E
• Roadmap for making an allowability determination
  • Creating budget
  • Expending funds
Allowability Roadmap

Statutory Requirements:
Use of Funds, SNS

Basic Cost Principles:
Reasonable, Necessary, Allowable (Part 200, Subpart E)

Specific Items of Cost: § 200.420

Best Practices

• Include review for allowability during budgeting process and payment process.
• Assigning allowability review to specific position and require authorization on budget and/or request for payment.
• Include FAQ with frequently questioned types of costs (for example, advertising, professional development, travel).

Procurement
Do you look good in orange?

OIG Audit: Greenville Public School District (Mississippi)

• The former superintendent conspired with the owner of Teach Them To Read, Inc., a company that provided reading services for at-risk youth, to award $1.4 million in district contracts in exchange for monetary kickbacks.

• Former superintendent plead guilty to charges of bribery, kickbacks, and embezzlement. He was sentenced to 76 months in prison and 3 years of supervised release, and was ordered to pay more than $1.2 million in restitution.

Do you look good in orange? (Cont.)

• The North Carolina Department of Public Instruction’s Administration of its Race to the Top Grant (July 2015)

• “We found that North Carolina paid about $1.4 million of a $2.4 million amendment to a contract for help desk and implementation support to schools…without documenting that employees obtained the required sole-source justification approvals.”

General Procurement Standards

• All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

2 CFR § 200.318(a)
Situations that Restrict Open Competition

- Situations that restrict competition:
  1. Unreasonable requirements on firms to qualify to do business
  2. Requiring unnecessary experience or excessive bonding
  3. Noncompetitive pricing practices
  4. Noncompetitive awards to consultants on retainer
  5. Organizational conflicts of interest (see 200.318(c)(3))
  6. Specifying a brand name instead of allowing "an equal"
  7. Any arbitrary action in the procurement process

2 CFR § 200.319(a)

Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.

- Does not preclude state licensing laws
- Exception: architectural and engineering services (if provides appropriate number of qualified firms)

2 CFR § 200.319(b)

Methods of Procurement

- NEW: Micro-purchase
- Small purchase procedures
- Competitive sealed bids
- Competitive proposals
- Noncompetitive proposals

2 CFR § 200.320
Contract Administration

- Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract.

  2 CFR § 200.318(b)

Grace Period

- “For the procurement standards in §§200.317-200.326, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance (superseded by this part as described in §200.104) for two additional fiscal years after this part goes into effect. If a non-Federal entity chooses to use the previous procurement standards for an additional two fiscal years before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procurement policies.”

  § 200.110

Best Practices

- Clearly defined thresholds
- List of required/accepted documentation and required forms
- Specify number of required bids/quotes
- Include description of solicitation process (transparency)
- Include procedures that ensure contracts are delivered before payment
- Separation of duties is important
Audit

• Camden City Public School District’s Administration of Non-Salary Federal Education Funds (March 2012)
  • “Camden did not have an adequate inventory system to ensure that equipment purchased with ESEA funds was properly managed....”

Definitions

• Equipment § 200.33
• Supplies § 200.94
• Computing Devices § 200.20
• Intangible property § 200.59
• Real property § 200.85
Equipment

- Management (inventory) § 200.313(d)
- Use § 200.313(c)
- Disposal § 200.313(e)

Best Practice

- Include policies for other types of property beyond equipment (real property, intangible property, supplies)
- Clearly indicate which policies/procedures apply to each type of property
- Describe inventory process in detail

Records
Audit Finding

Camden City Public School District’s Administration of Non-Salary Federal Education Funds (March 2012)

Camden lacked adequate documentation to support approximately $1.4 Million of ESEA expenditures. Expenditures lacked supporting documentation including:

- Purchase orders
- Requisitions
- Receiving reports
- Vouchers
- Etc.

Lack of supporting documentation is a very common finding.

Record Requirements

- Accounting Records § 200.302(b)(3)
- Property Records § 200.313(d)(1)
- Procurement Records § 200.318(i)
- Allowability requirement – adequately documented § 200.403(g)
- Records related to grant funds, compliance, and performance
  - §§ 75.730, 75.731, and 75.732
  - §§ 76.730 and 76.731

Record Retention Requirements

- Records related to a federal award (ex: financial records and supporting documents) must be maintained for 3 years under uniform grant guidance
  
  But…
  
  ➢ Liable for longer, or
  
  ➢ Subject to other rules requiring longer retention period
Record Storage

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

§ 200.335

Best Practice

- Specify what type of documentation must be maintained throughout policies and procedures
- Describe where documentation is maintained
- Describe acceptable storage methods
- Protections for PII
- FERPA

Internal Controls
Shorewood School District (Wisconsin)

- A former Shorewood School District administrative assistant was sentenced to prison for stealing more than $310,000 in Federal special education funds.
- Over a 13-year period, the administrative assistant created bogus purchase orders to use school district funds for vacations and household items.
- The woman was sentenced to serve a year and a day in prison and 2 years of supervised release, and she was ordered to pay more than $310,000 in restitution.

Nonprofit Center for Independent Living (Florida)

- The former executive director of the Center for Independent Living of Southwest Florida was sentenced to 39 years in prison for stealing more than $900,000 intended for the nonprofit center, which provided services to people with disabilities in a number of Florida counties.
- The former official used the money to fund an extravagant lifestyle that included international travel.
- The center closed in 2011 due to a lack of operational funds.

The North Carolina Department of Public Instruction's Administration of its Race to the Top Grant (July 2015)

- “North Carolina could improve the administration of its Race to the Top grant by strengthening its system of internal control over contracting and by more closely monitoring the fiscal activity of participating LEAs and charter schools…”
Internal Controls

- Internal controls: A process, implemented and designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
  - Effectiveness and efficiency of operations
  - Reliability of reporting
  - Compliance with applicable laws and regulations

2 CFR § 200.61

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Internal Control

- Internal Controls § 200.303
- The non-federal entity must:
  - Establish and maintain effective control over the federal award
  - Evaluate and monitor the non-federal entity's compliance with statutes, regulations, and terms of the federal award
  - Take prompt action when instances are identified including noncompliance identified in audit findings
  - Take reasonable measures to safeguard protected personally identifiable information (200.79)

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Approvals and Authorizations

Examples:
- For access to FMS and other Information Systems – employees submit request forms that must be approved by supervisor and authorized by IT.
- A “certified representative” trained and tested in grants administration must approve all badgers and requests for reimbursement.
- Dean must authorize any expenditure over $5,000.

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Separation of Duties

- No one person should:
  - Initiate transaction
  - Approve transaction
  - Record transaction
  - Reconcile balances
  - Handle assets
  - Review reports
- Individual conducting procurement is not responsible for payment
- Individual requesting transaction is not responsible for approving

Safeguarding Property

- Locked storage closet
- Sign-in/Sign out sheet for portable devices
- Password protected computers and systems

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