Virtual Fall Forum 2020: Managing Federal Grants During COVID-19 and the Resulting Funding Cliff
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Disaster(ous) Audits: Applying What We’ve Learned
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THE PAST

• K-12: Hurricane Education Recovery Act (HERA), Dec. 30, 2005, in response to Hurricanes Katrina and Rita:
  • (1) Restart Program
  • (2) Temporary Emergency Impact Aid for Displaced Students
  • (3) Assistance for Homeless Children and Youth

THE PAST

• Postsecondary: Bipartisan Budget Act, Feb. 9, 2018, in response to Hurricanes Harvey, Irma, and Maria, and the 2017 wildfires:
  • (1) Defraying Costs Program
  • (2) Emergency Assistance Program

THE AUDITS

• Emergency Impact Aid: Texas (3/6/20); Florida (underway)
• Restart Program:
  • Virgin Islands (6/4/19); Puerto Rico (7/17/19)
  • Texas (2/13/20); Florida (9/17/20)
  • ED Oversight for Disaster Assistance to IHEs (9/30/20)
THE ISSUES

* Internal Controls
* Procurement
* Timely Spending
* Documentation (Time and Effort)

INTERNAL CONTROLS (200.303)

Must:

- Comply with requirements
- Evaluate and monitor compliance
- Take prompt action to correct noncompliance
- Safeguard personally identifiable information (PII)
- Compliance Supplement, Internal Controls: “Control activities are the policies and procedures that help ensure the management directives are carried out.”
  - Clearly written and clearly communicated

INTERNAL CONTROLS – FINDINGS

* Fiscal and program monitoring inadequate
* Insufficient training
* Need to enhance technical assistance or guidance
* Insufficient staffing and procedures for Internal Audit
* Did not have risk assessment and fraud reporting process
INTERNAL CONTROLS – NO FINDINGS!

Texas Restart Audit

• Well-defined process for allocating program funds to LEAs and nonpublic schools
• Had appropriate existing processes for the submission and review of subrecipient applications and payment for allowable expenditures
• Required Internal Control and Monitoring Plan included a description of its well-established fiscal monitoring process
• Provided technical assistance to subrecipients to ensure they use funds in compliance with program requirements.

INTERNAL CONTROLS LESSONS LEARNED

• Establish internal controls and monitoring for CARES funding
• Build off existing procedures, but adjust as needed
• Fast timelines add to fraud risk – have alerts, processes to enable reporting

PROCUREMENT (200.317-326)

200.317: Procurements by States.

• Must follow the same policies and procedures it uses for procurements from its non-federal funds.

200.319: Competition.

• Must be conducted in a manner providing full and open competition.


• May be used only when one or more of the following circumstances apply:
  • The item is available only from a single source;
  • Public exigency or emergency will not permit a delay resulting from competitive solicitation;
  • Expressly authorized in response to a written request from the non-Federal entity;
  • After solicitation of a number of sources, competition is determined inadequate.

PROCUREMENT – FINDINGS

• Failure to comply with established procedures
  • Did not get required approvals
  • Did not have adequate documentation
  • Did not have a control in place to ensure all required forms were properly and timely completed

• Inadequate justification of the procurement of professional services not subject to competition

• Establish controls to ensure staff involved in the procurement processes follow established requirements, and provide training as applicable.

PROCUREMENT LESSONS LEARNED

• Self monitor for compliance with established procedures
• Update policies and procedures as needed
• Ensure staff receives training and oversight on compliance with State procurement policies and procedures

• Adequately document justification of procurement of goods or services not subject to competition.

TIMELY AWARD AND SPENDING (200.309; 200.305; 200.331)

• The Requirements: Must spend (obligate) funding within the period of availability; approval of pre-award costs; draw funds for immediate cash needs (cash management)

• The Challenges:
  • Uncertainty/lack of guidance on allowable costs
  • Administrative capacity, disrupted infrastructure
  • FEMA/Insurance/Other disaster relief funding – funding of last resort
  • Reliable data
TEXAS ADMINISTRATION OF RESTART PROGRAM (FEB 2020)

- LEA authorized extra duty pay of one hour per day to make up for lost instructional time due to hurricane school closures
  - Reviewed 31 employees’ compensation; questioned costs totaling $34k
    - For one teacher, disallowed extra duty pay for work before the hurricane occurred
    - For four teachers, disallowed extra duty pay for activities unrelated to Hurricane Harvey
    - For four teachers, disallowed extra duty pay after end-date of the authorization period (Dec. 21, 2017 – last school day in 2017)

TEXAS EMERGENCY IMPACT AID FOR DISPLACED STUDENTS AUDIT (MARCH 2020)

- Other Matters: Cash management.
  - Four LEAs returned unspent program funds
  - OIG asked for imputed interest, less $500 which may be retained

OPE AWARDING AND MONITORING DISASTER RECOVERY FOR IHES (SEPT 2020)

- Finding: Failed to fully implement Discretionary Grant Handbook and Internal Control Plan risk mitigations, including review applications to remove unallowable costs, apply the correct funding formula, place conditions on high-risk awards, and monitor grantees
  - Result: at least $242,232 in improperly awarded funds.
    - $30,000 in indirect costs in excess of 8 percent applicable rate
    - $36,619 to grantee that identified itself as both the receiving school and the affected school
    - $112,021 to grantee that marked costs “not applicable;” did not have list of displaced students
    - $32,389 awarded to ineligible applicant
LESSONS LEARNED

- Timelines are important! (Emergency relief; flexibilities for existing grants)
- Pass-throughs must balance risk assessment; review of applications; set appropriate terms and conditions with fast timelines to distribute funds
- Don’t forget the purpose of the CARES Funds: “to prevent, prepare for, and respond to coronavirus”
- Backfilling? Pay attention to obligation/performance, not just expenditure date

DOCUMENTATION (200.403(G))
TIME AND EFFORT (200.430(I))

- The Requirements: All costs must be necessary, reasonable, allocable and adequately documented. Compensation for employees must be supported with time and effort documentation.
- The Challenges:
  - Funding is received late – used to reimburse staff that did not keep T&E records
  - Accounting of unanticipated funding stream; differing budget/award periods
  - Access to document management systems
  - Internal controls; procedures; approvals

TEXAS EMERGENCY IMPACT AID FOR DISPLACED STUDENTS AUDIT (MARCH 2020)

- Unallowable costs: (1) LEAs did not separately account for and use Impact Aid funds for displaced students with disabilities; (2) LEAs did not ensure salary costs were only for employees in schools with displaced students.
- Questioned costs: $1.94 million related to costs for general education, instead of special education and related services
- Award notifications did not separately identify funds
- Subrecipient monitoring revised to test the issue
- Questioned costs: $750,888 in unsupported teacher salaries (no displaced students reported)
**LESSONS LEARNED**

• Documentation and verified data is important!
  • HEERF Student Aid awards
  • Time and effort documentation
  • Alternative documentation/procedures?
  • Accounting for CARES funds as federal awards with separate cost objectives

**WHAT’S NEXT**

**THE FUTURE**

• ED OIG Audit Plan for CARES Education Stabilization Funds:
  • GEER: State design and implementation of awarding process; State monitoring process
  • ESSER: LEA use of ESSER for technology and related controls
  • HEERF: IHE use, focus on 50 percent of funds for grants to students
• Treasury OIG Audit Plan for Coronavirus Relief Fund:
  • Review of Treasury’s administration; guidance
  • Reporting requirements
  • Recipient use of funds
THE FUTURE

* Compliance Supplement 2020 (released August 2020)
* Federal awarding agencies and PTEs are responsible for identifying COVID-19 awards and communicating the applicable compliance requirements to the recipient/subrecipient.
  * "[F]or COVID-19 related awards, the compliance requirements may have been communicated through an agency website and the compliance requirements may have been modified or compliance requirements not included in original terms and conditions may have been added."

THE QUESTIONS

* Will reliance on federal guidance protect me from audit findings?
  * CRF Guidance: "As an administrative convenience, Treasury will presume that expenses of up to $500 per elementary and secondary school student are eligible expenditures, such that schools do not need to document the specific use of funds up to that amount."
  * No documentation needed?
  * 34 CFR 81.33, Mitigating Circumstances

* If I don’t have emergency procedures, what should I do?
  * Draft them.
    * Timeframe?
    * Approval?
    * Memo-to-file?
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