

How to Comply with UGG Requirements and Survive an Audit

PRESENTER

Kristi Krafft-Bellsky, CPA, *Senior Manager*
krikra@yeoandyeo.com



yeoandyeo.com

Agenda

- Financial management
- Required policies and procedures
- Other auditee requirements
- Resources

WHEN Does it Apply?

Date	Item
12/26/13	Became applicable to Federal agencies
6/30/14	Federal agencies must submit to OMB their drafts for implementing the changes
12/26/14	Federal agencies' regulations are <u>uniformly</u> effective for all federal awards or funding increments (to existing awards) issued after this date
12/26/14	New single audit changes for fiscal years beginning after 12/26/14 (i.e. calendar year 2015 Single Audits first to be impacted)

3

How to Comply with UGG Requirements and Survive an Audit

Financial Management



Financial Management



- Must possess the ability to prepare or review the SEFA as prepared by your auditor
 - Must identify in accounts all federal awards received and expended and include the CFDA title and number, federal award identification number and year, name of the federal agency and the name of the pass-through entity. (§ 200.302.b.1)
 - A State may designate an “other cluster” in addition to the ones determined at the Federal level. In those instances the state must identify which awards are in the cluster and what the compliance requirements are. (§ 200.17)

5

Financial Management



- §200.62 indicates what information must be included in a federal award.
- Internal controls-Must have a process implemented to provide assurance that (§200.62):
 - Transactions are properly recorded and accounted for in order to :
 - Permit preparation of reliable financial statements and Federal reports.
 - Maintain accountability over assets and
 - Demonstrate compliance with requirements

6

Financial Management

- Must have comparison of expenditures with budget amounts for each federal award (§ 200.302.b.5)
 - Required to report deviations and request prior approvals for revisions relating to change in scope of objective, change in key person specified in application, disengagement from the project for more than three months or a 25% reduction in time devoted to project by project director. (§200.308)
- Must have written procedures to implement the requirements of payment (§ 200.302.b.6)
- Must have written procedures for determining the allowability of costs (§ 200.302.b.7)

7

How to Comply with UGG Requirements and Survive an Audit

Required Policies and Procedures



Conflict of Interest §200.112 and §200.318



- The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.
- Must have written standards of conduct covering conflicts of interest and governing the actions of employees

9

Payment §200.305



- (b) Minimize the time elapsing between transfers and disbursement
 - (1) As close as administratively feasible to actual disbursement (when using an advance method)
 - (3) Reimbursement is the preferred method when you cannot minimize the time elapsing
 - (4) Working capital advance – initial advance and thereafter reimburse for actual disbursements
 - (5) To extent available *must* use program income, rebates, etc. before requesting funds
 - (9) Interest earnings in excess of \$500 must be remitted to DHHS Payment management system

10

Equipment §200.313



- Insurance coverage- Must provide insurance coverage for real property and equipment acquired or improved with federal funds. (§200.310)
- Title vests in the non-federal entity subject to the following:
 - Use is for authorized purposes of the project during the period of performance or until the property is no longer needed.
 - Cannot encumber the property without the approval of awarding agency.
 - Must use and dispose of property in accordance with requirements

11

Equipment §200.313



- Priority Usage (§200.313.c.1):
 - Authorized purposes of project while funded
 - Activities under a Federal award from the same funding agency
 - Activities under a Federal award from a different funding agency
- During the time the equipment is used on a project, it must be available for us on other federal projects as long as it does not interfere with the original purpose for what it was purchased for. (User fees should be considered) (§200.313.c.2):

12

Equipment §200.313



- Cannot use equipment to provide services for fee less than private companies (§200.313.3)
- When acquiring replacement equipment, the original equipment may be used as a trade in or use sale proceeds to offset the replacement property. (§200.313.4)

13

Equipment – Property Records §200.313.d



- Description
- Serial or other identification number
- Source of funding, *including the FAIN*
- Who holds title
- Acquisition date
- Cost
- Percentage Federal participation
- Location
- *Use*
- Condition
- Ultimate disposition data

14

Equipment §200.313

- Physical inventory once every two years (§200.313.d.2)
- Adequate safeguards to prevent loss, damage, or theft (§200.313.d.3)
- Adequate maintenance procedures (§200.313.d.4)

15

Equipment - Disposition §200.313

- If the entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- Must request disposition instructions if required by the award.
- Current FMV \$5,000 or less, no further obligation to Federal awarding agency
- If FMV is over \$5k, and no instructions provided by awarding agency within 120 days, the asset can be retained or sold. The awarding agency should receive an amount calculated by multiplying the current FMV or sales amount by the percentage of federal participation in the cost of the original purchase. The organization may be allowed to keep \$500 or 10%, whichever is less for selling and handling the expenses.

16

Equipment - Disposition

§200.313

- May be requested to transfer title to Federal government or 3rd party (would be compensated for % of nonfederal participation)

17

General Procurement §200.318

- Must use own documented procurement procedures
- Oversee contractors are performing in accordance with contract
- Written conflict of interest standards on selection, award, and administration
 - Must include disciplinary actions
- May set standards for insubstantial financial interests and nominal value unsolicited gifts
 - Default is that none are acceptable

18

General Procurement §200.318



- If there is a parent, affiliate or subsidiary (not a state, local government, or Indian tribe) must maintain written standards of conduct covering organization conflicts of interest
- Procedures must avoid duplicative or unnecessary items
- Where applicable lease versus purchase analysis

19

General Procurement §200.318



- Encourage inter-entity agreements where appropriate for procurement or use of common/shared goods/services
- Encourage use of Federal excess and surplus property
- Encourage value engineering clauses in construction projects
- **MUST** Only award contracts to responsible contractors able to perform successfully

20

General Procurement §200.318

- Must maintain records to detail history of procurement (all procurements with Federal funds)
 - Rationale for method of procurement
 - Selection of contract type
 - Contractor selection/rejection
 - Basis for contract price
- Time and materials contracts only if no other suitable contract type and there is a ceiling price
 - Requires high degree of oversight
- Responsibility for handling protests, disputes and claims

21

Competition §200.319

- Full and open competition
- Contractors developing/drafting specifications, requirements, statements of work, and invitations to bid or RFPs cannot compete for that procurement
- No geographical preferences unless Federal statute mandates or encourages
 - Trumps state laws

22

Competition §200.319



- Written procurement procedures
 - Clear and accurate description of technical requirements
 - Minimum essential characteristics
 - Detail product specifications should be avoided if at all possible
 - Identify all requirements offerors must fulfill
 - Identify factors used in evaluating bids/proposals
 - Prequalification lists must be current and include enough qualified sources to ensure open and free competition

23

Procurement Methods §200.320



- Micro-purchases (new for government)
 - Aggregate does not exceed \$3,000
 - Distribute equitably among qualified suppliers
 - Simply need to consider price reasonable
- Small purchases
 - Cost less than Simplified Acquisition Threshold (\$150,000)
 - Price or rate quotations from an adequate number of qualified sources

24

Procurement Methods §200.320



- **Sealed bids**
 - Use if complete specifications, two + responsible bidders, and lends itself to firm fixed-price contract
 - Publicly advertise invitation for bids
 - All bids publicly opened at time and place prescribed in invitation
 - Firm, fixed-price contract awarded to lowest responsive and responsible bidder
 - Document sound reasons for rejection
 - Consider discounts, transportation costs, life cycle costs

25

Procurement Methods §200.320



- **Competitive proposal**
 - Use if conditions not appropriate for sealed bid
 - More than one source
 - Fixed-price or cost-reimbursement contract
 - Requests for proposals must be publicized and identify all evaluation factors and relative importance
 - Solicit from adequate number of qualified sources
 - Written method for conducting technical evaluations of proposals and selecting recipients
 - Award to “most advantageous” proposal including price and other factors
 - Only architectural/engineering can use selection without consideration of cost

26

Procurement Methods §200.320



- Noncompetitive proposals (restrictions on usage new for NPOs)
 - Solicitation from only one source
 - Use if only available from one source, Or
 - Use if public exigency or emergency that will not permit delay, Or
 - Use if Federal awarding agency or pass-through entity expressly authorizes, Or
 - After soliciting a number of sources, competition is determined inadequate

27

Minority, and Women's Business Firms §200.321



- Place on solicitation lists
- Solicit when potential sources
- Divide into smaller tasks or quantities to permit participation by smaller entities
- Delivery schedules to encourage participation
- Use assistance of organizations such as SBA and Minority Business Development Agency
- Require prime contractor to do the same if subcontracting out

28

Contract Cost and Price §200.323



- Must perform cost or price analysis in connection with every procurement over Simplified Acquisition Threshold
 - Includes contract modifications
 - Independent estimates prior to receiving bids or proposals
 - Negotiate profit as separate element of price if no competition and where cost analysis performed
 - Cost plus percentage of cost not allowed
 - Percentage of construction cost method not allowed

29

Procurement Considerations



- Compare new requirements to existing, written procurement policies and procedures (if any)
- Evaluate existing circumstances which noncompetitive procurements were utilized
- Consider entity-wide change provision of the Super Circular's effective date

30

Allowability of Costs §200.403



and Subpart E

- Written procedures required as to how your organization ensures that charges to grants are considered allowable. (§ 200.302.7)
- General considerations:
 - Should be necessary and reasonable and allocable for the performance of the award
 - Be consistent with policies and procedures applied to both federally and non federally funded activities.
 - Cannot allocate a similar cost as both a direct and indirect charge
 - Follow GAAP
 - Be adequately documented

31

Basic Cost Considerations



- Reasonable (§200.404)
 - Prudent person
 - Ordinary and necessary
 - Whether the entity significantly deviates from its established practices and policies
- Allocable (§200.405)
 - Incurred for Federal award
 - Benefits Federal award and non-Federal and can be distributed proportionately
 - Necessary to overall operation and is assignable in part

32

Basic Cost Considerations

- Applicable credits
- Written prior approval
 - §200.201 change in principal investigator et. al.
 - §200.306 unrecovered indirect costs
 - §200.307 use of program income as cost sharing/matching
 - §200.308 budget changes due to:
 - Change in scope
 - Change in key person
 - Disengagement for 3+ months or 25% reduction in project director's time

33

Basic Cost Considerations

- §200.308 budget changes due to:
 - Inclusion of costs requiring prior approval
 - Transfer of funds budgeted for participant support
 - Subaward/contracting out of work under award
 - Changes in cost sharing or matching
 - May restrict transfers of > 10% of total budget

34

Specific Cost Policies

- §200.430 Compensation:
 - Reasonable
 - Follows rules and policies
 - Supported by documentation
- §200.430 Compensation:
 - Must have written policy for benefits provided to employees
 - Must have a written leave policy in place.
- §200.213 Suspension and Debarment:
 - Restriction to awards, subawards and contracts with certain parties that are debarred, suspended, or otherwise ineligible.

35

Protected Personally Identifiable Information (Protected PII)

§200.82 and §200.303

- Individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts
- Must take reasonable measures to protect PII

36

Subrecipient Monitoring §200.330

- Must do subrecipient vs. Contractor determination
 - Recommend documenting to prove performed and to have the “judgment” decisions for the future

37

Subaward Details §200.331

- Clearly identify as subrecipient and provide the following at the time of subaward, and if they change provide subsequent subaward modification:
 - Subrecipient name matching registered name in DUNS
 - Subrecipient DUNS number
 - Federal Award Identification Number (FAIN)
 - Federal award date
 - Subaward period of performance start and end date

38

Subaward Details §200.331



- Amount of Federal funds obligated by the action
- Total amount of Federal funds obligated to the subrecipient
- Total amount of Federal award
- Federal award project description
- Name of Federal awarding agency, pass-through entity and contact information
- CFDA number and name (required along with dollar amount at time of grant)
- Identification of whether award is R&D
- Indirect cost rate for award

39

Subaward Details §200.331



- Requirements imposed by pass-through entity on subrecipient
- Requirement to permit the pass-through entity and auditors access to records as necessary
- Closeout terms and conditions

40

Subrecipient Risk Evaluation

§200.331

- Evaluate each subrecipient's risk of noncompliance to determine appropriate monitoring
 - Prior experience
 - Results of previous audits
 - New personnel or systems
 - Results of Federal award agency monitoring
- Consider imposition of subaward specific conditions

41

Subrecipient Monitoring

§200.331

- Must include
 - Reviewing financial and programmatic reports required by pass-through entity
 - Following up and ensuring timely appropriate corrective action
 - Issuing management decisions
 - Verify Federal audits as required
 - Consider changes to pass-through entity's own records based on monitoring
 - Consider enforcement action on noncompliant subrecipients

42

Subrecipient Monitoring §200.331



- May include
 - Training and technical assistance
 - On-site reviews
 - Agreed-upon procedures

How to Comply with UGG Requirements and Survive an Audit

Other Auditee Requirements

Internal Controls: What is the “Must”?



- Entity must:
 - Establish and maintain effective internal controls over Federal awards
 - Comply with terms and conditions applicable to the Federal award and other applicable laws and regulations
 - Evaluate and monitor the non-Federal entity’s compliance with Federal awards
 - Take prompt action when issues of noncompliance are identified

45

Internal Controls: Internal Control Guidance



- “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)
- “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States [\[Green Book\]](#)

46

Internal Controls: Meet The “Green Book”



- Finalized September 2014
- Adopted from COSO Framework and adapted for government environment
 - 17 principles related to five components of internal control
- Grant compliance not explicitly addressed
- Green Book
- <http://www.gao.gov/assets/670/665712.pdf>

47

Internal Controls: Considerations



- How are your internal controls (not necessarily same as processes) documented?
- Challenge of “reasonable assurance”
 - Matter of auditor judgment

48

Mandatory Disclosures §200.113



- Must disclose in a *timely manner, in writing* to the Federal awarding agency or pass-through agency *all* violations of Federal criminal law involving the following and *potentially* affecting the Federal award:
 - Fraud
 - Bribery
 - Gratuity violations

49

Remedies for Noncompliance §200.338



- Temporarily withhold cash
- Disallow cost
- Wholly or partially suspend or terminate Federal award
- Initiate/recommend suspension or debarment proceedings
- Withhold further Federal awards
- Other legal remedies

50

Record Retention §200.333



- 3 years from date of submission of final expenditure report
 - For those renewed quarterly or annually, 3 years from the date of submission of the quarterly or annual financial report
- Litigation or notified in writing – must extend period
- Real property and equipment keep for 3 years after final disposition

51

Auditee Responsibilities §200.508



- Ensure audit performed and submitted
- Prepare financial statements and SEFA
- Promptly follow up and take corrective action
- Provide auditor access

52

Auditor Selection §200.509



- Follow procurement standards
- Must request peer review report during procurement

53

Audit Findings Follow-Up §200.511



- Corrective action plan
 - Separate from auditors' findings
 - Name of contact person responsible for corrective action
 - Corrective action planned
 - Anticipated completion date
 - If auditee disagrees with finding, then include explanation and specific reasons

54

Resources

- OMB
 - http://www.whitehouse.gov/omb/financial_default/
- Federal Register and preamble
 - <https://federalregister.gov/a/2013-30465>
- COFAR
 - <https://cfo.gov/cofar/>
 - Includes webcasts and FAQs
- Crosswalk
 - http://www.whitehouse.gov/omb/grants_docs

55

Resources

- Federal Audit Clearinghouse Internet Data Entry System
 - [https://harvester.census.gov/facides/\(S\(dgs1qw3wrpggtiy2k1arfjok\)\)/account/login.aspx](https://harvester.census.gov/facides/(S(dgs1qw3wrpggtiy2k1arfjok))/account/login.aspx)
- OMB M 13-17 (Evidence and innovation agenda)
 - <http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-17.pdf>

56

Thank You

Kristi Krafft-Bellsky

krikra@yeoandyeo.com

989-793-9830



yeoandyeo.com