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Independent Living Research Utilization
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Uniform Guidance for SILCs

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What You Will Learn

- OMB's new Uniform Guidance and how it relates to SILCs
- Which aspects of the new Uniform Guidance have changed and how to address the new requirements at your SILC
- Key prohibitions in Uniform Guidance to ensure federal expenditures are reasonable, necessary, allowable, and allocable
- Resources for further information to implement necessary changes to comply with Uniform Guidance

Uniform Guidance

- SILCs receive federal monies and therefore need to know about Uniform Guidance (as do the CILs).
- Whether you are a non-profit SILC or another form of a council, you are a “subrecipient” of federal funds that flow through your DSE, and the same requirements apply. (More about that shortly.)
- All federal agencies, including HHS, recently reviewed and in some cases rewrote their policies based on the new Uniform Guidance rules, so they are very focused on these rules.

What is OMB's Uniform Guidance?

- In the past CILs and SILCs that are non-profits were governed by OMB Circulars 110, 122 and 133.
- These circulars, as well as the ones governing governmental entities, have been combined into a single guidance.
- For a while this was called the "Super Circular" because it rolled so many prior circulars together.
- These are the rules that govern the use of federal dollars.

Code of Federal Regulations

- The rules are found at 2 CFR 200
- The actual title is “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards,” commonly referred to as “Uniform Guidance.”
- We are regulated by Health and Human Services, Administration for Community Living, Independent Living Administration. They may issue additional guidance related to these requirements.

When are these new guidelines effective?

- The Uniform Guidance is applied to entities receiving federal funds for new funding after December 26, 2014. Practically speaking, this means these principles applied to CILs and DSEs effective October 1, 2015.
- These also apply to SILCs that are non-profits as sub-recipients of funds through the DSE.
- Councils that are not separate non-profits will need to meet the requirements of the DSE, which are also based on this Uniform Guidance but may vary based on the state's policies.

Definitions

- The term **contractor** replaces **vendor**, but it still describes an organization that is providing products or services.
 - Payments to contractors are not subject to the cost allocation rules; however, they are subject to rules for procurement.
- **Cost objective** is defined.
- **Program Income** is defined. Some funding controls how that income is used.
- Recipient, sub-award, and sub-recipient are defined.
- The terms **should** and **must** are clarified. Must is something you have to do. Should is a best practice.

Reasonable, Necessary, Allowable, Allocable

- These are the words that are repeated most often in the guidance.
- All expenditures of federal funds must be **reasonable**. When in doubt, get bids or compare prices and maintain that research with the record of the expenditure to be able to show reasonableness.
- You may need to make a case that the expense is **necessary** to your project.
- Only **allowable** costs will be permitted. More about that in a moment.
- Expenses must be **allocated** among “cost objectives” or funding sources, if you have more than one.

Costs must be consistent 200.403

- Costs must be **consistent** with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity.
- Costs must be accorded consistent treatment. Similar costs should be treated in the same manner, for example as direct or indirect.
- This also means that you can't arbitrarily move costs from one grant to another because you have some money left over.
- Be consistent in how you record and document costs.

Cost Principles 200.400

- The non-Federal entity (NFE – that’s both the DSE and the SILC) assumes **responsibility for administering Federal funds**.
- The NFE has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to **assure proper and efficient administration** of the Federal award.
- All costs must be **adequately documented**.

When are bids required to show reasonableness?

- You are no longer required to show your bidding process for products or services that are less than \$3,500 over the period of the year. (If your monthly cost is \$350, x 12, that exceeds \$3,500 for the year and must be bid.)
- Your own policies and procedures may be more restrictive, requiring bids or proof of reasonableness at \$1000 or some other number.
- The DSE, traditionally, has been allowed to set a lower amount for when bids are required. You need to follow their policy if the threshold for requiring bids is lower than \$3,500.

Methods of Procurement 200.320

- Micro-purchase (less than \$3,500)

Purchase orders may be awarded without soliciting any competitive quotations if the NFE considers costs to be reasonable. In this case the NFE must, to the extent practicable, distribute these purchases equitably among qualified suppliers, if they offer the same rate.

- Small purchase (less than \$150,000)
- Sealed bid purchase (more than \$150,000)
- Competitive proposal purchase (more than \$150,000)
- Non-competitive purchases (special circumstances which are applicable for all purchase levels)

More specifics about purchases...

- Micro-purchase (less than \$3,500)
How do you “distribute these purchases equitably among qualified suppliers, if they offer the same rate”?
- Small purchase (over \$3500 but less than \$150,000)
Procedures are “relatively simple and informal.” Price or rate quotations must be obtained from at least two sources, and can be written, oral, a page from a website, etc.

What about an annual audit?

- The new guidance is very clear that a **single audit** of federal awards is required if your expenditures of federal awards exceed \$750,000 a year.
- It is equally clear that you cannot use federal funds for a single audit UNLESS you have federal awards of **at least \$750,000**.
- If your policies or funders require an audit and your budget for that audit has been approved, your costs for a **financial statement audit** may be allowable as long as properly allocated across all funding sources.
- For a financial statement audit, assure that any auditor you engage understands that you are not hiring them to perform a single audit, which is more complex.

Conflict of Interest Section 200.112

- The Federal awarding agency must establish conflict of interest policies for Federal awards.
- The non-federal entity has to establish these policies for its own operations.
- 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.

Conflict of Interest, cont'd.

- Develop a Code of Ethics for your council members to sign as they come on board, and that is reviewed at least annually. (A Google search of Code of Ethics will give you lots of ideas for content.)
- Your policy can be expanded to include specific concerns for your Council.
- A council member should be required to disclose their conflict and refrain from discussion/vote if they might benefit.
- Being a staff or board member or consumer of a CIL may not pose a conflict, and you must have members who are knowledgeable of Independent Living.

Questions?



Key things that you need to do quickly include:

- Adopt policies to comply with new rules. Samples can be found in resources at <http://www.ilru.org/training/financial-management-workshop-for-cils-regulations-and-beyond>
- Identify who will be responsible for compliance with rules and train them to comply. The link above includes videos from recent training on Financial Management.
- Apply your new indirect cost rate or elect a 10% rate to increase what you get paid or decrease your documentation requirements.
- The DSE is required to assure that subrecipients – SILC and CILs – have an indirect cost rate or cost allocation plan. Work with DSE and use training at <http://www.ilru.org/training/how-prepare-indirect-cost-rate-proposal>.

What You Need to Know

- Our experience is that if you demonstrate that you understand the key concepts, you will have a better result with funders, particularly if they audit your programs.
- The key areas you need to be aware of are:
 - Internal controls over federal awards
 - Rules for time and effort reporting
 - Procedures for indirect costs
 - Procurement requirements

Internal Controls

- You must establish and maintain internal controls over federal awards that provide reasonable assurance that you are managing them in compliance with general federal requirements and the specific rules for the funding you receive.
- Internal controls should be in compliance with the Green Book *Standards for Internal Controls in the Federal Government* and/or with COSO (Committee of Sponsoring Organizations of the Treadway Commission).
- Our sample policies offer examples of internal controls.

Internal Controls 200.303

- The non-Federal entity must establish and maintain effective internal controls over Federal awards that provide reasonable assurance that awards are being managed in compliance with Federal statutes, regulation and the terms and conditions of the federal award.
- We provide sample policies related to this.
<http://www.ilru.org/il-net-sample-fiscal-policies-and-procedures-handbook>
- Your auditor will review the adequacy of your own policies/procedures/practices.

Equipment and Conditional Title

200.313(a)

- Title for equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity as a “conditional title.”
- This means that the ownership of this equipment vests in the non-Federal entity at the time of acquisition and that it is contingent on meeting the requirements for use, management and disposition of the equipment.
- If the non-federal entity is defunded, the equipment is to be returned to the DSE for distribution within the IL network.

Property records

- You must maintain an equipment inventory system that demonstrates you have an effective system of controls to account for and track equipment acquired with Federal funds.
- Identify the product (brand, serial number), provide its purchase price and the % of federal funds, the date of purchase, the location and condition of the property, the disposition date and how you disposed of it.
- Conduct inventory every two years.
- It may be useful for control of purchased items to include all your computer equipment and tablets, even though they have less value.

Changes in Time and Effort Reporting

- This is the method used to allocate the time of staff members across cost objectives.
- The form used for this is a Personnel Activity Report.
- While there have been some changes it is too early to know how they will be enforced, so we recommend that you continue your PAR for now.
- The PAR is staff time broken out by cost objective (usually funding source but also including non-allowable costs like lobbying).
- If you only have Part B funding for your SILC, you are not required to allocate your time to different funding sources, unless you have fundraising activities or do lobbying.

Time and Effort Reporting

- There were some really stringent but inconsistently enforced requirements to document time and effort in the old regulations. The new rules are more flexible, but we believe they will be more strictly enforced.
- The new rules require that how you charge payroll and related costs must be based on records that accurately reflect, **after the fact**, the work performed. You also need a **policy** that explains your procedure.
- We recommend the use of a **Personnel Activity Report** (PAR). (Example provided at <http://www.ilru.org/training/financial-management-workshop-for-cils-regulations-and-beyond>)

What is a cost objective?

§ 200.28 Cost objective.

Cost objective means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non-Federal entity, a particular service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity, as described in Subpart E—Cost Principles of this Part.

Direct and Indirect Costs

- You will need to follow the DSE procedures for indirect costs and cost allocation.
- They may require you to apply for an Indirect Cost Rate. You can elect to charge 10% for your indirect costs instead, but that will probably leave you inadequate funding
- If you don't do either, you will have to document that all federal dollars are spent on direct program expenses – not indirect costs
- If you currently have an Indirect Cost Rate, you can elect to keep it in place for four years.

Allowable and non-allowable costs Part 200



Advertising (200.421) Allowable advertising costs are those solely for:

- Recruitment of personnel
- Procurement of goods/services
- Disposal of surplus
- Program outreach or other specific purpose necessary to meet the requirements of the award.

Public relations:

- Communicating with public and press pertaining to specific activities or accomplishments
- Costs specifically required by award (fund development, outreach)

Non-allowable advertising/public relations

- Anything other than what IS allowed.
- Some costs of meetings, conventions, convocations, or other events *for the purpose of advertising* such as
 - Costs of displays, demonstrations and exhibits
 - Costs of meeting rooms, hospitality suites and other special facilities
 - Salaries and wages of engaged in setting up and displaying exhibits, making demonstrations and providing briefings
 - Costs of promotional items and memorabilia, including models, gifts and souvenirs
 - Costs of advertising and public relations designed solely to promote the non-Federal entity.
- Conferences whose primary purpose is dissemination of technical information and deemed necessary and reasonable are allowed.

Non-allowable costs, cont'd.

- Entertainment costs. (200.438) including amusement, diversion and social activities and any associated costs, except where specific costs that might otherwise be considered entertainment have a programmatic purpose AND are authorized either in the approved budget or with prior written approval of the Federal awarding agency.
- Fines, penalties, damages and other settlements (200.441)
- Goods or services for personal use, including housing costs (200.445)
- Lobbying (200.450)

Your Certification Regarding Lobbying promises you are not. . .



- Improperly influencing activities re: obtaining grants, contracts, cooperative agreements or loans.
- Attempting to improperly influence employee or officer of Government.
- Attempting to influence outcomes of Federal, state, or local elections, referendums, or initiatives through in-kind or cash contributions, endorsements, or publicity.
- Contributing to expenses of a political party, campaign, or political action committee.
- Attempting to influence votes for or against specific legislation with certain exceptions.

Keep the form on file.

Advocacy or Lobbying?

- Proactive advocacy around laws that should be in place for equal rights is not lobbying and is allowed.
- Technical and factual presentations on topics directly related to the performance of a grant, contract or other agreement are not lobbying and are allowed.

Costs of travel, lodging or meals follow the allowability of the advocacy or lobbying.

If the testimony is unallowable so is the travel. If the lobbying is allowable, so is the travel.

IRS limits are not the same

- Lobbying within percentage limits by the IRS is different from what is allowable and not allowable.
- You need to know this second set of requirements related to keeping your non-profit status if your SILC is a non-profit.
- You need to file to report the funds used for lobbying to the IRS.
- Uniform guidance indicates you can lobby, but don't do it with federal money. The IRS says you can only spend a percent of your funds on lobbying to keep your non-profit status. See <http://www.independentsector.org/> for more details.

Other non-allowable costs

- Alcoholic beverages (200.423)
- Bad debts (200.426)
- Contributions and donations (200.434)
- Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement are not allowed IF
 - Relates to a violation or failure to comply with law, regulation or terms and conditions of award
 - Results in a criminal conviction, an allegation of fraud or misconduct, a monetary penalty

Other Information from Uniform Guidance

- It is now acceptable for your records to be maintained in an electronic-only format.
- Fines and penalties from violations and alleged violations are not allowable costs.
- Rental costs for sale and lease back arrangements are limited to what would have been paid if the property wasn't sold.
- Home office rent is unallowable.
- Temporary dependent care resulting directly from travel to conferences may be allowable.

Other Interesting Information from Uniform Guidance, cont'd.



- Entertainment is allowable only with a program purpose and also if you get prior federal approval.
- Health & welfare costs incurred for improving working conditions, employee-employer relations, employee health, & employee performance are allowable.
- If you receive donated equipment, you can request reimbursement of depreciation based on fair value or use the item to meet matching requirements—not both.
- You will need to disclose in writing any potential conflicts of interest and any violations of federal criminal law potentially affecting your awards.

Uniform Guidance Resources

- You can find the text of Uniform Guidance, and lots of helpful aids at: *<https://cfo.gov/cofar/>*.
- Additional resources
 - COSO internal control structure – executive summary
http://www.coso.org/documents/coso%202013%20icfr%20executive_summary.pdf
 - The Green Book
<http://www.gao.gov/greenbook/overview>

Subrecipient Monitoring and Management

200.331



The SILC **may** be treated as a sub-recipient of Part B funds passed through DSE. **If** so...

- DSE can measure SILC performance as to whether objectives of the Federal program are met.
- SILC has responsibility for programmatic decision making.
- SILC is responsible for adherence to applicable Federal program requirements specified in the award.
- DSE sets the indirect cost rate for the federal award.
- SILC must provide access to financial records for audit.
- DSE can impose specific conditions if appropriate.

200.207

Questions?



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Final Questions & Answers and Evaluation

Any final questions?

Please click the link below to complete the evaluation survey:

<http://www.surveygizmo.com/s3/2919623/SILC-NET-Webinar-Uniform-Grant-Guidance-for-SILCs-August-30-2016>

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