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# Government Contracts 101: Uniform Guidance and Grants

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# Agenda

- What are Grants?
- How Do I Get Them?
- Compliance Under the Super Circular
- Current Federal Grant Compliance & Enforcement Environment
- Grant Risk Case Studies
- Grant Risk Mitigation

# What are Grants?

# What are Grants?

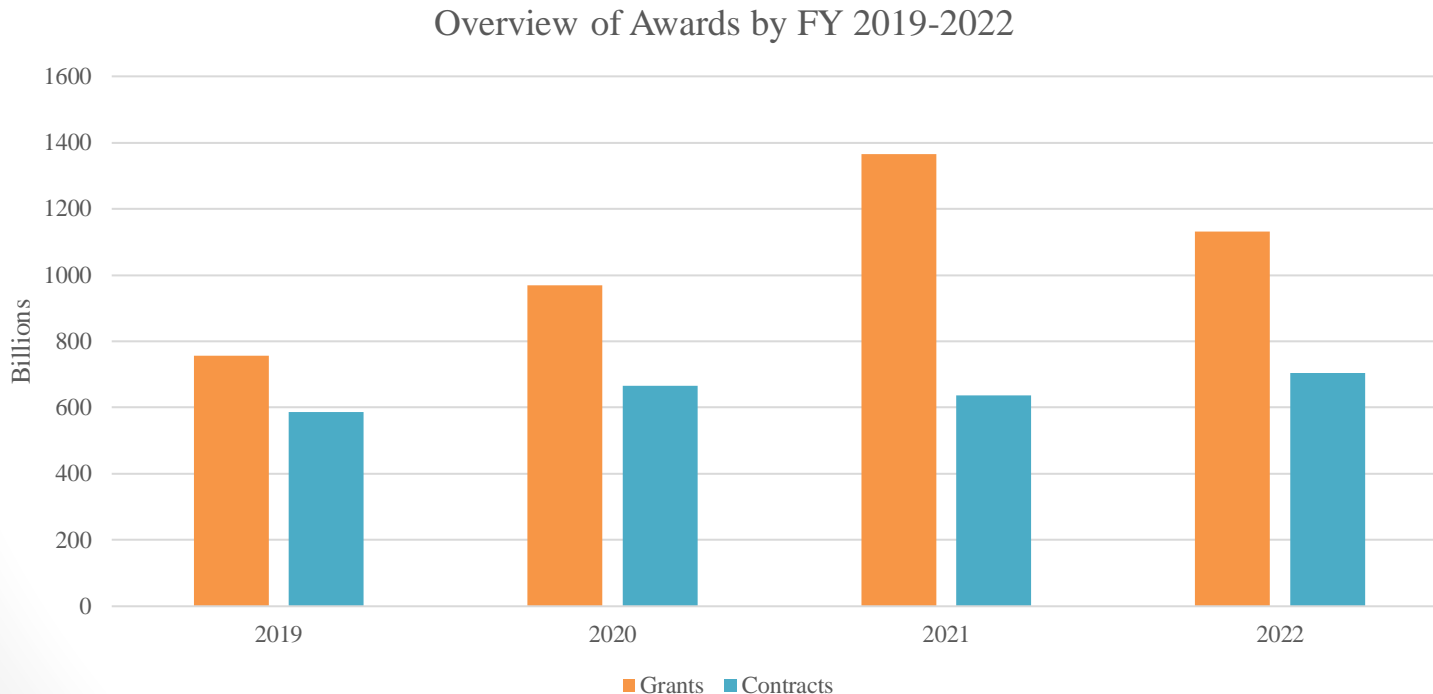
- Federal Grant and Cooperative Agreement Act of 1977
  - **Grants:** Agencies are required to award a federal grant when the goal is to carry out a “*public purpose*” without much involvement by the state or local government.
  - **Contracts:** Agencies are required to use a procurement contract for the “*direct benefit or use*” of the Government—i.e., not for a “public purpose of support or stimulation.”
  - **Cooperative agreements:** Grants in which the government has “*substantial involvement.*”

# Who Awards Grants?

- Federal, State, and Local Governments
  - Very strict guidelines for applying to, receiving, tracking, and reporting on Government/Federal grants.
- Foundations
  - A foundation is a non-governmental entity, with a principal purpose of making grants to unrelated organizations, institutions, or individuals for charitable purposes.
- Corporations
  - For-profit companies donate some of their profits or resources to charity.

# Federal Awarding Agencies

- In FY 2022, the Federal Government spent over \$1.1 trillion on federal grants.
- Trend in grant spending contrasts with contract spending:



# Federal Awarding Agencies (cont.)

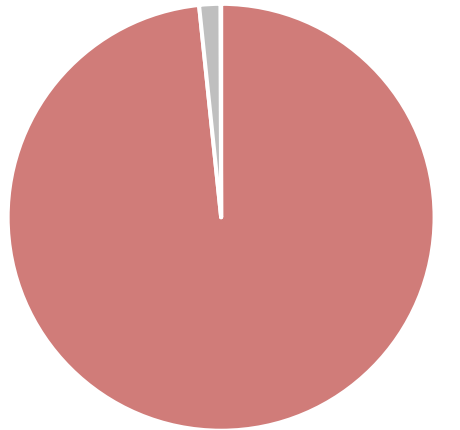
- Top awarding agencies in FY 2022
  - Department of Health & Human Services (HHS) – \$740.2 billion
  - Department of Transportation (DOT) – \$119.6 billion
  - Department of Education (ED) – \$68.3 billion
  - Department of Agriculture (USDA) – \$57.5 billion
  - Department of Homeland Security (DHS) – \$37.6 billion
  - U.S. Agency for International Development (USAID) – \$22 billion
  - Department of Housing and Urban Development (HUD) – \$20.6 billion
  - Department of Labor (DOL) – \$9.4 billion
  - Department of Defense (DOD) – \$9.1 billion
  - National Science Foundation (NSF) – \$8.1 billion

# Federal Awarding Agencies (cont.)

- Percentage of grants versus contracts varies by agency:

DOD

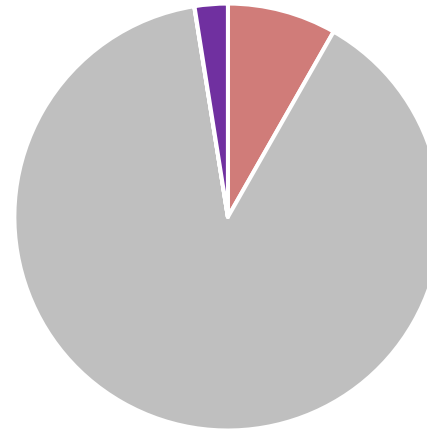
Total Funds Awarded by Type



■ Contracts      ■ Grants

DOT

Total Funds Awarded by Type



■ Contracts      ■ Grants      ■ Loans



# Federal Awarding Agencies (cont.)

- Department of Transportation
  - Approximately \$119.6 billion in grants and non-contract assistance in FY 2022
  - Top programs
    - Federal Highway Administration – Highway Planning and Construction
    - Federal Transit Administration – Federal Transit Formula Grants
  - Private sector grants

# Federal Awarding Agencies (cont.)

- Department of Homeland Security
  - Approximately \$37.6 billion in grants and non-contract assistance in FY 2022
  - Top programs
    - Federal Emergency Management Agency – Disaster Grants – Public Assistance
    - U.S. Coast Guard
    - Transit Security
  - Private sector grants
    - Cybersecurity

# Federal Awarding Agencies (cont.)

- U.S. Agency for International Development
  - Approximately \$22.1 billion in grants and non-contract assistance in FY 2022
  - Top Programs:
    - Bureau for Humanitarian Assistance
    - Foreign Assistance for Programs Overseas (Ukraine, Indo-Pacific Region)
    - Development, Democracy, Innovation
  - Private sector grants

# Federal Awarding Agencies (cont.)

- National Science Foundation
  - Approximately \$8.1 billion in grants and non-contract assistance in FY 2022
  - Top Programs:
    - Division of Ocean Sciences
    - Undergraduate and Graduate Education
    - Computer and Information Science and Engineering Program
  - Private sector grants

# Federal Awarding Agencies (cont.)

- Department of Defense
  - Approximately \$9.1 billion in grants and non-contract assistance in FY 2022
  - Top Programs:
    - Office of Local Defense Community Cooperation
    - Uniformed Services University of the Health Sciences
    - National Security Education Program
  - Private sector grants
    - Rapid Innovation Fund
    - DIU<sub>x</sub>

# Federal Awarding Agencies (cont.)

- Department of Energy
  - Approximately \$4.2 billion in grants and non-contract assistance in FY 2022
  - Top Programs:
    - National Energy Technology Laboratory
    - Advanced Research Projects Agency-Energy
    - National Nuclear Security Administration
    - Office of Environmental Management
  - Other private sector grants

# Compliance Under the Super Circular

# Super Circular

- Applies to Federal agencies that make Federal awards to non-Federal entities
- Applicable to all costs related to Federal awards
- Entities must comply with requirements regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award
- The terms and conditions of Federal awards flow down to subawards to subrecipients unless a particular section of this guidance or the terms and conditions of the Federal award specifically indicate otherwise



# Super Circular

Part	Applicable	Not applicable
Subpart A – Acronyms & Definitions	<ul style="list-style-type: none"> <li>All</li> </ul>	
Subpart B – Admin. Changes: General Provisions (1)	<ul style="list-style-type: none"> <li>All</li> </ul>	
Subpart B – Admin Changes: Sections listed in Note (1)	<ul style="list-style-type: none"> <li>Grants &amp; cooperative agreements</li> </ul>	<ul style="list-style-type: none"> <li>Loans, interest subsidies, &amp; insurance agreements;</li> <li>Cost-reimbursable contracts/ sub-contracts under the FAR;</li> </ul>
Subparts C – D: Admin Changes (2)	<ul style="list-style-type: none"> <li>Grants &amp; cooperative agreements</li> </ul>	<ul style="list-style-type: none"> <li>Loans, interest subsidies, &amp; insurance agreements;</li> <li>Cost-reimbursable contracts/ sub-contracts under the FAR;</li> </ul>
<ul style="list-style-type: none"> <li>Subpart D – Post Award Requirements, including</li> <li>Sub-recipient monitoring</li> </ul>	<ul style="list-style-type: none"> <li>All</li> </ul>	
<ul style="list-style-type: none"> <li>Subpart E – Cost Principles</li> </ul>	<ul style="list-style-type: none"> <li>Grants &amp; cooperative agreements, except food commodities;</li> <li>Cost-reimbursable contracts/ sub-contracts under the FAR;</li> </ul>	<ul style="list-style-type: none"> <li>Grants &amp; cooperative agreements for food commodities;</li> <li>Fixed amount awards;</li> <li>Federal awards to hospitals;</li> <li>Loans, interest subsidies, &amp; insurance agreements;</li> </ul>
<ul style="list-style-type: none"> <li>Subpart F – Audit Requirements</li> </ul>	<ul style="list-style-type: none"> <li>All</li> </ul>	

# Super Circular

## Subparts B-D; Administrative changes

- Requirements for Federal awarding agency management of Federal grant programs:
  - Before the Federal award has been made
  - Imposed on non-Federal entities in the Federal award

## Subparts B-D; Administrative changes

- Non-Federal entities receiving awards must disclose conflicts of interest in accordance with the awarding Federal agency's policy
- Mandatory disclosures are required for non-Federal entities award recipients or applicants regarding violation of Federal criminal law
  - i.e., bribery, gratuity, or fraud potentially affecting the Federal award
- Applies to new and additional incremental funding of pre-existing awards after December 26, 2014

## Subparts B-D; Funding notice requirements

- Subpart C: Pre-Federal Award Requirements and Contents of Federal Awards
  - Instructions for announcement and application processes
  - Use of the appropriate contracting instrument
- Funding notice requirements:
  - Standardization of information
  - Marking of required sections
  - Funding priorities, focus areas, program description, and history
  - Describe substantial agency involvement
  - Additional application requirements must be approved by the OMB

# Super Circular

## Subparts B-D; Risk assessment

- Prior to making a Federal award, the awarding agency is required to review information made available through OMB-designated repositories of eligibility qualification or financial integrity such as:
  - SAM exclusion and FAPIIS
  - “Do Not Pay”
- The awarding agency will employ a framework to evaluate risks before awarding Federal funds (criteria to be included in the funding announcement)
- General factors to be assessed may include:
  - Financial Stability
  - Quality of management systems
  - Reports and findings from audits
  - History of performance
  - Recipient’s ability to implement statutory, regulatory, or other requirements

# Super Circular

## Subparts B-D; Required certifications

- To ensure Federal expenditures are proper and in accordance with the terms and conditions of the federal awards, recipients must provide the minimum certifications throughout the program or project:

Report	Certification Owner
Annual and final fiscal reports or vouchers requesting payment	An Official who is authorized to legally bind the recipient (non-Federal entity)
Cost allocation plans or final indirect rate proposals (F&A)	Individual at a level no lower than Vice President or Chief Financial Officer
Non-profit organizations – stating they do not meet the definition of a major nonprofit organization	Not specified in guidance

# Super Circular

## Subparts B-D; Internal controls

- Recipients are required to maintain effective internal controls over the Federal award that provides reasonable assurance that the recipient is managing federal funds in compliance with Federal statutes, regulations, and terms and conditions of the federal awards
  - Leading practice is for controls to be in line with the COSO or “Standards for Internal Control in the Federal Government”
- Establish a compliance monitoring process
- Take prompt corrective action when instances of noncompliance are identified in audit findings
- Take protective measures to protect sensitive data

## Applicability of COSO and green book

- The guidance specifically requires nonfederal entities to establish and maintain effective internal control over federal awards that provides reasonable assurance that awards are managed in a manner that is compliant with federal statutes, regulations and the terms and conditions of the award
- Given the paradigm shift from a rules based approach to compliance to a principles based requirements model, non-federal entities should strategically invest in a strong system of internal controls that focus on design and effectiveness to ensure compliance with government contracting regulations

# Super Circular

## Subpart E; Cost principles

- Principles for determining the allowable costs incurred by non-Federal entities under Federal awards
- Non-Federal entity is responsible for the “efficient and effective administration of the Federal award through the application of sound management practices”
- Designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by statute
- Costs that are made unallowable under FAR 31.2 and 31.603 are always unallowable

# Super Circular

## Subpart E; Cost principles

- Existing negotiated indirect cost rates are utilized until they are due to be re-negotiated
  - If no current rates exist, can use 10% of Modified Total Direct Costs
- The Cost Principles must be used in determining allowable costs performed by the non-Federal entity under Federal Awards
  - Includes fixed-price contracts and subcontracts where costs are used in establishing the price
- The Cost Principles do not apply to:
  - Federal financing in the form of loans, scholarships, fellowships, traineeships, other fixed amounts;
  - For institutes of higher education, capitation awards, based on case counts, according to the terms and conditions of the award;
  - Federal awards to hospitals (see separate Appendix);
  - Fixed amount awards, including cooperative agreements and contracts; and
  - Other awards which the non-Federal entity is not required to account to the Federal Government for actual costs incurred.

# Super Circular

## Subpart E; Cost principles, compensation for personal services

- Consolidates reporting requirements
- Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed
  - Internal controls provide reasonable assurance that the charges are accurate, allowable, and properly allocated
  - Includes processes to review after-the-fact interim charges made to a Federal award based on budget estimates for proper adjustment
- Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented

## Subpart F; Audit requirements

- Sets standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards
- Provide the policies and procedures for Federal awarding agencies and pass-through entities when using the results of these audits



# Super Circular

## Subpart F; Audit requirements

- Single audit or Program-specific audit (election; not for R&D work)
  - Requirement threshold increased from \$500,000 to \$750,000+ in Federal awards during a fiscal year (exempt if under \$750,000)
- Federal due date of single audit remains unchanged – earlier of:
  - 30 calendar days after receipt of the auditor’s report(s), or
  - Nine months after the end of the audit period
- Audit reporting package contents requirements remain unchanged though now made publicly available through the Federal Audit Clearinghouse (FAC)
  - Financial statements
  - SEFA – Schedule of Expenditures of Federal Awards
  - Listing of individual Federal programs by Federal agency
  - Summary schedule of prior audit findings & whether corrective actions have been implemented
- Audit questioned costs reporting threshold raised to \$25,000 (from \$10,000) for a type of compliance requirement

# How Do I Get Grants?

# The Federal Grant Process—Getting Grants

- Federal Funding for Grants
  - Legislative authorization of grant programs
  - Appropriations bills
    - Discretionary agencies, programs, and appropriated entitlement programs are funded each year in appropriations acts
    - Mandatory spending is not dependent on an annual or periodic appropriation
      - E.g., Medicaid, TANF, and CHIP are among mandatory programs
- Notice of Opportunity – agencies publish announcements re grant funding opportunities.
  - Form depends on the agency and type of program
    - E.g., program announcements, requests for applications, notices of funding availability, or solicitations

# Some Places to Find Grants

- Services/Websites
  - <https://www.grants.gov/>
    - Clearinghouse that lists all grant opportunities; search tool allows potential applicants to search, filter, and apply for specific opportunities
  - <https://www.fedconnect.net/FedConnect/default.htm>
    - Search public opportunities by agency & key words
  - <https://www.fbo.gov/>
    - Resource for DOD opportunities
  - <http://www.dsireusa.org/>
    - Database of State Incentives for Renewables & Efficiencies: tracking state and local funding opportunities

# Some More Places to Find Grants

- Agencies also publish opportunities on their websites
  - Department of Energy – <https://energy.gov/energy-economy/funding-financing>
  - NIH Guide for Grants and Contracts – <https://grants.nih.gov/funding/index.htm/>
  - NSF “Find Funding” – <https://www.nsf.gov/funding/>

# Grant Administration and Performance (high level/not all inclusive) Checklist

**Not every entity the same, not every grant the same.**

- Procurement Standards
- Methods of Procurement
- Subrecipient v. Contractor Determinations
- Requirements for Subawards
- Accounting Systems
- Internal Controls
- Time Reporting
- Cost Sharing
- Invoicing
- Real Property
- Reporting
- Record Retention
- Closeout

# **Current Federal Grant Compliance & Enforcement Environment**

# Compliance & Enforcement Environment for Federal Grants

- Federal grants are highly regulated
- Key oversight players
  - Awarding agency personnel
  - Agency inspectors general
  - Department of Justice (DOJ)
  - Law enforcement and criminal investigative services
  - Whistleblowers
  - Congress



# Compliance & Enforcement

## Environment for Federal Grants (cont.)

- Federal grants facing increased scrutiny on multiple fronts, increasing compliance and enforcement risks for grantors and grantees:
  - **Regulatory** – Super Circular requirements impose more “contract-like” requirements on grantees.
  - **Administrative** – Agencies facing increased pressure to manage grants and control costs.
  - **Responsibility** – Efforts to increase suspension and debarment of contractors has increased actions against grantees as well.

# Compliance & Enforcement

## Environment for Federal Grants (cont.)

- Federal grants facing increased scrutiny on multiple fronts, increasing compliance and enforcement risks for grantors and grantees (cont.):
  - ***Trump Administration*** – Focus on cutting allegedly duplicative/unnecessary programs.
  - ***Other Government Oversight*** – Recent focus on grants by Offices of Inspector General (OIG) and the Government Accountability Office (GAO).
  - ***Law Enforcement*** – Civil and criminal fraud actions against grantees (and individuals) on the rise.
  - ***Private Whistleblowers*** – Increased focus on fraud in connection with federal and state grant programs.

# Remedies for Grant Misconduct

- Administrative remedies
  - Special conditions
  - Payment withholds and cost disallowances
  - Suspension
  - Termination
- Civil and criminal remedies
- Exclusion

# Administrative Remedies

- Special Conditions
  - Can be imposed because of recipient's actual, impending, or reasonably predictable failure to comply with federal statutes, regulations, or terms and conditions of award
  - Can be imposed for a variety of reasons
    - Noncompliance
    - Misapplication of funding
    - Nonperformance
  - Recipient must receive notice of the special conditions, including the reason for the requirements and conditions to remove them

# Administrative Remedies (cont.)

- Types of Special Conditions
  - Payment by reimbursement (as opposed to advance payment)
  - Withholding approval to proceed with the next increment of an award
  - Requiring additional or more detailed financial, performance, or other reports
  - Requesting the recipient to obtain technical or management assistance
  - Subjecting the recipient to additional levels of prior approval

# Administrative Remedies (cont.)

- Payment Withholds and Cost Disallowances
  - Agency can take either step for noncompliance
  - Payments can be withheld pending more severe enforcement action by the awarding agency or by another federal government entity
  - Cost disallowances not necessarily tied to misconduct or fraud
- Suspension of Award Performance
  - Temporary withdrawal of funding pending corrective action or a decision to terminate the award
  - Can affect entire award or just part
  - Limits costs that can be charged to the grant during suspension period

# Administrative Remedies (cont.)

- Termination

- Drastic remedy typically reserved for material noncompliance(s) after one or more opportunities for corrective action
- Agency must take certain procedural steps before termination
  - Notice of pending termination
  - Opportunity to object and provide support
  - Advise recipient on impact of termination on future awards
  - Entry into federal databases (i.e., FFATA, FAPIIS)

# Civil and Criminal Remedies

- The False Claims Act (FCA) is the Government's primary civil tool for prosecuting perceived fraud.
  - In fiscal year 2022, DOJ recovered over \$2.5 billion in settlements and judgments in civil cases involving fraud against the Government.
    - \$1.7 billion in recoveries related to health care fraud in FY2022.
  - Grants (and grantees) increasingly becoming the target of FCA actions.
- Violators can be prosecuted criminally as well.



# The False Claims Act Basics

- Prohibits (among other things):
  - Knowingly presenting or causing another to present a false or fraudulent claim for payment or approval; or
  - Knowingly making a false record or statement material to a false claim; or
  - Knowingly making a false record or statement material to an obligation to pay money to the Government, or knowingly concealing an obligation to pay money to the Government; or
  - Implied certification theory has been upheld by SCOTUS.

# The False Claims Act Basics (cont.)

- The FCA does not require a specific intent to defraud
  - “Knowledge” can be actual knowledge of the falsity or deliberate ignorance or reckless disregard of the truth or falsity of information
  - Mistake v. gross negligence v. criminal fraud
- FCA amendments in 2009 significantly broadened scope of liability:
  - False statement need only be “material to” government payment;
  - Elimination of the “presentment clause”; and
  - Retention of overpayments.

# *Qui Tam*/Whistleblower FCA Actions

- A private person, known as a *qui tam* plaintiff, relator, or whistleblower, may bring a lawsuit alleging fraud on behalf of the Government.
  - Allegations remain under seal while the Government investigates – no notice to defendant or public.
  - Government has 60 days to decide whether to intervene and take over case, but routinely receives multiple extensions from courts.
- Incentive to blow whistle – private person can receive up to 30% of Government's recovery.
- *Qui tam* relators are often employees or, increasingly, competitors.

# Potential Consequences of FCA Actions

- Administrative recoveries of funds
- Civil lawsuits
  - Government can recover three times actual damages, where damages equal up to the value of the grant
  - Government can seek penalties from \$5,500 to \$11,000 per false claim
- Criminal prosecution
- Exclusion (i.e., suspension/debarment)
- A *combination* of some or all of these remedies

# Exclusion

- Agency can exclude recipient from all “covered transactions” for lack of “present responsibility”
  - Variety of specifically-identified causes, including a conviction or indictment for fraud/criminal offense
  - Also any “offense indicating a lack of business integrity or business honesty that seriously affects present responsibility”
- Suspension (temporary) v. debarment (permanent)
- Strict due process requirements that agencies must follow
- Pressure on agencies to increase exclusions of “bad actors”

# Grant Risk Case Studies

# Grant Risk Case Studies

- Given the seemingly ever-growing amount of monies awarded by the Federal Government in the form of grants, there has recently been a significant increase in Federal oversight of how grant monies are awarded and used.
- This uptick in oversight is driven by various OIGs (HHS for example), GAO, Suspension & Debarment Officials, and DOJ.
- Increased DOJ scrutiny is the most worrisome for grantees given the rise in prosecutions of grant related False Claims Act cases in recent years.

# Fraud Risk Areas Throughout the Grant Life Cycle

- False statements in grant applications and proposals
- Noncompliance with special terms and conditions
- Misuse/misallocation of funds
- Inaccurate reporting
- Failure to comply with grant conditions
- Inadequate sub-recipient monitoring
- Failure to accurately track time and costs



# False Statements in Grant Applications, Proposals, and Claims

- *United States ex rel. Potter v. CASA de Maryland*, No. CV PX-16-0475, 2018 WL 1183659 (D. Md. Mar. 6, 2018): In March 2018, a Maryland Federal Court granted a former employee of a federal grant recipient permission to pursue a *qui tam* complaint she filed against her employer alleging that various False Claims Act violations in connection with federal grant applications filed by the grant recipient that the employee identified as deficient.
- In March 2018, the University of Pittsburgh paid a \$132K settlement for a professor's alleged False Claims Act violations involving the creation of false approvals that were submitted to NSF for payment under multiple grant proposals totaling \$2.3 million. The professor was excluded from applying for or participating in any federal grants for 18 months and had to withdraw any pending applications.

# False Statements in Grant Applications, Proposals, and Claims (cont.)

- In February 2016, an astrophysicist paid \$180,000 and entered into a deferred criminal prosecution for failing to disclose on a grant application that, in addition to working at his private company, he was employed full-time at the University of California, San Diego. The scientist also understated how many other grants and competing time commitments he had with other federal agencies.
- In the summer of 2015, a children's hospital had to pay \$12.9 million to settle allegations that it misreported its available bed count on an application for a grant from the U.S. Department of Health and Human Services (HHS) to fund pediatric residents training at the hospital. The misstatement was brought to the Government's attention by a hospital employee whose responsibilities included regulatory analysis and compliance. The employee received almost \$2 million from the settlement.

# False Reporting

- In July 2016, Columbia University paid \$9.5 million to resolve allegations that it had impermissibly applied its “on-campus” indirect cost rate – instead of the much lower “off-campus” indirect cost rate – when seeking federal reimbursement for 423 NIH grants where research was primarily performed at off-campus facilities owned and operated by the State of New York and New York City. The settlement also addressed allegations that Columbia failed to disclose to NIH that it did not own/operate these facilities and that it did not pay for use of the space for most of the relevant period.

# False Reporting

- **Batch Billing:** Recently, an Ivy League university paid \$9 million to resolve concerns that it had not verified whether salary and wage charges were based on an employee's actual effort for that grant. To manage the multiple federal, state, and private grants funding the work it was doing, the university allegedly developed a system where its finance department created reports that allocated its employees' time across the many grants. The principal investigators on the grant then allegedly certified large batches of the reports as correct without inquiring with the employees who performed the work whether the time reports were accurate. The batch timekeeping system led to mischarging among federal, state, and private grants.

# Other Recent Grant Related Cases

## **Misuse/misallocation of funds**

- In early 2016, a children's charitable organization was forced to pay \$1.6 million to settle a False Claims Act investigation after an audit by the Inspector General revealed the organization had commingled grant funds with its general operating funds.

## **Failure to accurately track time & costs**

- In November 2015, the University of Florida paid almost \$20 million to settle allegations that it violated the False Claims Act. The Government alleged that the university did not have documentation to back up the level of effort claimed by hundreds of employees on the grants and that the university charged some of the grants for administrative costs for equipment and supplies that should not have been direct charges.

# Other Recent Grant Related Cases (cont.)

## Misrepresenting a project's status to continue receiving government funds

- *United States ex rel. Freedom Unlimited, Inc. v. City of Pittsburgh, Pennsylvania*, 728 F. App'x 101 (3d Cir. 2018): In March 2018, the Third Circuit revived a previously-dismissed False Claims Act qui tam action brought by four Pittsburgh area community organizations against the City of Pittsburgh and its former mayor alleging that the City made false certifications in its applications for HUD funding. The community organizations alleged that the City (1) failed to properly analyze, address, or propose specific solutions to the City's annual action plans and performance reports, (2) failed to follow its citizen participation plan, and (3) repeatedly allocated HUD funds to ineligible activities.

## Failure to comply with grant conditions

- In March 2016, Bard College paid \$4 million to settle allegations that it received funds under the Teacher Quality Partnership Grant Program despite failing to comply with the conditions of the grant. Specifically, the complaint alleged that Bard awarded, disbursed, and received Title IV student loan funds at campus locations before such locations were accredited or before providing notice of such locations to the Department of Education.

# Grant Risk Mitigation

# Risk Mitigation for Grant Misconduct

- Implement robust training and compliance programs
- Strong Internal Controls
- Ensure your Policies and Procedures inform everyone of persons responsible for specific compliance functions and that those who are responsible know they are.
- Policies and Procedures must contain certain sections (conflicts of interest, indirect cost allocation, whistleblower, etc..)
- Create checks and balances between sales, operations, and billing
- Scrutinize billings, certifications, and other submissions
- Seek and document Government approval of actions
- Perform due diligence on employees and subcontractors
- Flow down requirements to subrecipients
- Maintain all records of all expenditures
- Undertake a reasonable investigation in the face of any billing concerns
- Identify a senior officer for compliance and internal investigations
- Get counsel involved early
- Promote internal reporting channels, including hotline
- Take internal complaints seriously and follow up
- Don't take Government inquiries/investigations lightly
- Compliance is everyone's concern—all hands on deck!



# Reference: Selection of Relevant Statutes and Regulations

- 2 CFR 200.318 *et seq.* (The Super Circular) available at [https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
- The Green Book available at <http://www.gao.gov/greenbook/overview>
- Federal Acquisition Regulation (FAR) Part 31; 41 CFR Part 31 available at <https://www.acquisition.gov/sites/default/files/current/far/html/FARTOCP31.html>
- Federal False Claims Act, 31 U.S.C. §§ 3729-3733
- Executive Order No. 13768 (banning sanctuary cities from receiving grant monies)
- Public Law No. 114-261 – Dec. 14, 2016 (Permanent whistleblower protection for contractor and grantee employees)