

Content Workshop: Federal Funding Compliance and Documentation

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COVID e311 Federal Assistance Content Workshop Experts

KOBRE & KIM



Probita New York

Key Compliance Principles for Grantees

(Treasury Compliance and Reporting Guidance SLFRF)

- Meet all compliance and reporting responsibilities to ensure equitable, transparent, and responsible recovery for all Americans
- Ensure funds are not used for ineligible purposes & there is no fraud, waste, and abuse
- Balance meeting urgent & critical community needs while maintaining a robust documentation and compliance regimen
- Advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities



Clawbacks by HUD & DHS Offices of the Inspector General (“OIG”)

- DHS OIG audits between 2010-2020 resulted in recommendations to recover or de-obligate over \$1.3 billion
- Over the past 10 years, OIG auditors from HUD & DHS have recommended almost \$2 billion in recoupment, disallowances, or de-obligation of funds from grantees
- HUD OIG audit of Disaster Relief Appropriations Act (2014-2017) resulted in over \$500 million in claw-backs, noting grantees failed to report the activities and expenses transparently



Reasons noted by HUD and DHS OIG for Cost Recoveries and De-obligation of Funds

- Failure to maintain proper supporting documentation
- Non-compliance with procurement regulations:
 - Ensuring open and free competition
 - Ensuring sufficient opportunities exist for minority and women owned businesses
 - Performing cost or price analysis prior to receiving bids
 - Providing financial controls and oversight
- Claiming ineligible costs
- Duplication of benefits
- Lack of subrecipient agreements



DHS & HUD OIG Audits/Case Studies



The Omaha Tribe of Nebraska and Iowa Grant Mismanagement of \$14 Million



- Accounting system lacked internal controls
- Supporting documentation unreliable and in disarray
- Poor documentation resulted in the OIG questioning almost \$14 million
- Failure to comply with Federal procurement regulation, i.e. non-competitive contracts
- Poor financial and grant management included:
 - Claimed unrelated costs
 - \$312,282 bonus to a contractor
 - \$168,764 for ineligible expenditures to repair an old casino
- Lack of experience & training for grant management and accounting personnel

The Omaha Tribe of Nebraska and Iowa Lessons Learned



- Assume that audits from several internal and external auditors will take place and act accordingly
- Have leadership team in place with relevant grant administration experience and familiarity with the Code of Federal Regulations (“CFR”)
- Have a central repository database for all program information, including invoicing and payments to avoid unsupported and/or duplicative costs
- Perform internal reviews and audits prior to the arrival of OIGs. Uncover issues before they become systemic
 - In this case, the problem grew so large the OIG recommended FEMA temporarily withhold all funds and designate Omaha a “high-risk grantee”

Louisiana Ascension Parish School Board

\$9.1 Million Public Assistance Grant Funds Disallowed

The Board was a subrecipient to the Governor's Office.

Findings/Recommendations

- \$25.6 million in disaster-related contracts did not follow procurement regulations. The Board failed to:
 - Verify if contracts were awarded to debarred or suspended parties
 - Develop independent estimates or perform cost analysis before receiving proposals
 - Assure the use of disadvantaged firms whenever possible



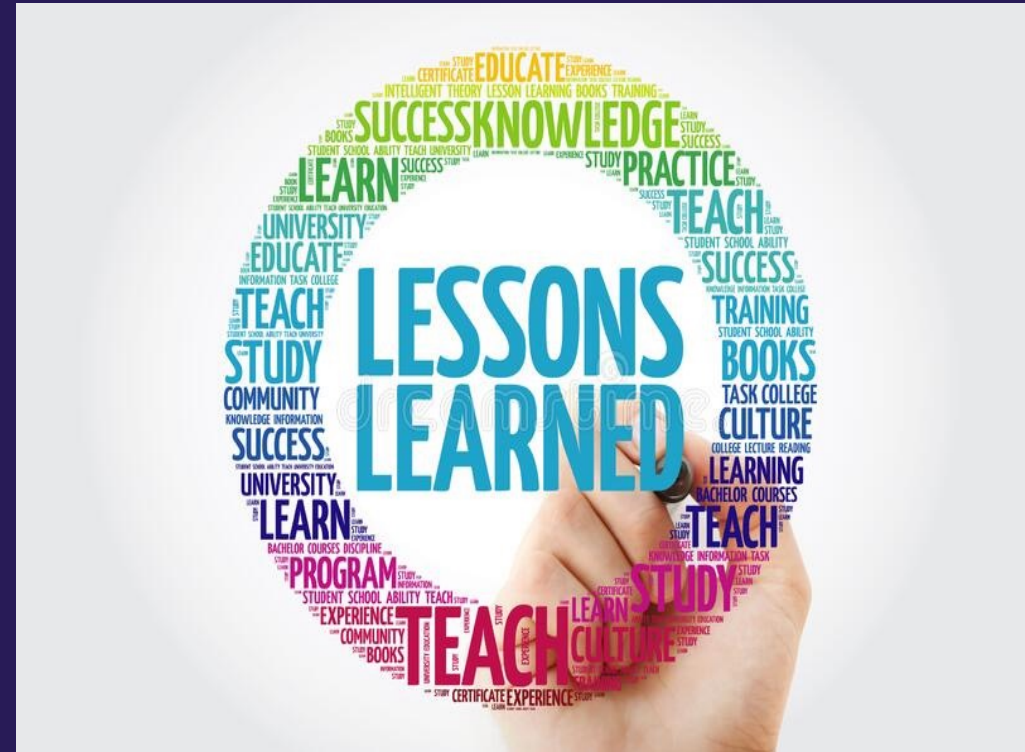
Louisiana Ascension Parish School Board Lessons Learned



- Take steps to ensure procurement opportunities are widely available so MWBEs are aware of opportunities and utilized when possible
- Perform due diligence on contractors and vendors, to include at a minimum, a check of excluded/suspended parties - See <https://sam.gov/content/home>
- Ensure subrecipients are also aware of their obligation to perform due diligence checks

Strong Audit Controls: Subrecipient Oversight

- Enter into subrecipient agreements after award of a contract
 - Capture all expectations and federal requirements
 - Right to access book & records
- Provide oversight and assistance to subrecipients
 - Assess ability to perform contracted work
 - If deficiencies exists, consider providing training and technical assistance



Some Ways to Minimize Chances of a Clawback



- Transparency, public accountability, and fairness are essential to procurement and documentation
- Review applicable local, state, and Federal rules governing procurement and the necessary documentation required to demonstrate fair and reasonable processes
- Follow the most stringent rules from applicable regulations and funding streams to protect your organization from any vulnerabilities
- Document all special case determinations to support any decisions (e.g. use of emergency or sole source procurement methods)

Resources to Supplement Internal Compliance Efforts

- Treasury's frequently asked questions regarding Coronavirus Local Fiscal Recovery Funds "CLFRF" notes in question 10.5 that:
 - "Recipients may use funds for administering the CLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements"
 - Assess your organizations available resources and capabilities to identify limitations and gaps that might require hiring consultants to support your staff



SLFRF Recipient Compliance and Reporting Requirements

Table 2: Reporting requirements by recipient type

Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021, with expenditures by category	By October 31, 2021, and then 30 days after the end of each quarter thereafter ⁹	By August 31, 2021, and annually thereafter by July 31 ¹⁰
Metropolitan cities and counties with a population below 250,000 residents which received more than \$5 million in SLFRF funding			Not required
Tribal Governments		By October 31, 2021, and then annually thereafter ¹¹	
Metropolitan cities and counties with a population below 250,000 residents which received less than \$5 million in SLFRF funding			
NEUs	Not required		

Interim Report

- Initial overview of the status and uses of funds
- Covers spending 3/3/21 to 7/31/21
- Submit via “Treasury Submission Portal”

Project & Expenditure Report

- Reports on projects funded, expenditures
- Contract/subawards over \$50k
- Submit via “Treasury Submission Portal”

Recovery Plan Performance Report

- Info on the projects undertaken
- The plan to ensure effective, efficient & equitable outcomes
- Submit via “Treasury Submission Portal” & publish on your own website

Resources: SLFRF Recipient Compliance and Reporting Requirements

- Treasury Submission Portal [Request Funding | U.S. Department of the Treasury](#)
- Treasury Webinars based on Population & Amount of Funding:
 - ☐ State, Territories and Cities/Counties with Population greater or equal to 250,000
[WEBINAR: State & Local Recovery Fund: Reporting Guidance \(Large States, Territories, & Cities\) – YouTube](#)
 - ☐ Counties/Cities with Population less than 250,000 & Awards over \$5M
[WEBINAR: State & Local Recovery Fund: Reporting Guidance \(Counties/Cities with award over \\$5million\) – YouTube](#)
 - ☐ Counties/Cities with Population less than 250,000 & Awards under \$5M
[WEBINAR: State & Local Recovery Fund: Reporting Guidance \(Counties/Cities w/ award under \\$5million\) - YouTube](#)
- Treasury Presentation Slides for each Population & Funding Categories
[Recipient Compliance and Reporting Responsibilities | U.S. Department of the Treasury](#)



Resources to Supplement Internal Compliance Efforts

- [American Rescue Plan Act of 2021](#)
- [Department of Treasury Interim Final Rule](#)
- [Department of Treasury Compliance and Reporting Guidelines CLFRF](#)
- [The Uniform Guidance 2 CFR 200](#)
- [2 CFR Part 200, Compliance Supplement](#)
- [Coronavirus State and Local Fiscal Recovery Funds Web Page](#)



Related COVID e311 Published Guidance

- What documentation is a municipality required to supply in order to receive funds? What is the due date for documentation?
- How far back can an audit extend in an attempt to claw back funds received by a municipality?
- Can ARP or other federal funds be used to hire a third-party vendor to help ensure proper documentation, tracking, and accountability?
- Will cities have to provide evidence or documentation that city expenditures of the ARP funds fall within the ambit of “the public health emergency with respect to COVID-19 or its negative economic impacts” as set forth in Section 603(c)(1)(A)?
- How can municipalities manage and specifically conduct due diligence on the finances of programs that are the beneficiaries of multiple sources of funding?
- Can you provide elements to a hypothetical audit checklist to best prepare my city for future audits by outside parties or governmental agencies?
- What are some simple steps our municipality can take to help prevent fraud in the procurement process?
- What are some best practices for tracking American Rescue Plan (“ARP”) allocations and expenses?
- May municipalities use funds from the CARES Act CRF or the ARP CLFRF to support administrative hiring costs (including immigration paperwork and filing fees) related to personnel who were hired for and are funded by COVID-19 grants?

Questions.
