San Luis Obispo County
Community College District &
San Luis Obispo County Office of Education

2012 Federal Compliance Training
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Objectives

- The basics of OMB Circular A-133, when it is applicable, and what it requires of the auditor
- What compliance requirements are, how auditees can identify them, and what auditors are required to test
- Auditee responsibilities for internal control over compliance, the various elements of COSO, and auditor responsibilities for understanding and testing auditee internal control
- Various rules and regulations that must be complied with to achieve compliance
- The various reporting requirements for both auditors and auditees
What Auditors are Required to Do Under A-133, What We Need from Management, and How it Affects You

- Definition of Federal Award
- Obtain SEFA from Client
- Complete Risk Assessment / Determine Major Programs
  - Type A/B Programs
  - High Risk Program Indicators
  - Percentage of Coverage Rules
  - Obtain Understanding of Major Program
What Auditors are Required to Do Under A-133, What We Need from Management, and How it Affects You (continued)

- Test Major Program
  - Design of Internal Controls / Walk-through
  - Elements of COSO

- Compliance with Grant Regulations and Effectiveness of Internal Control
  - Federal Compliance Supplement
    - 14 Compliance Requirements
    - Common Areas for Findings (with reference to regulation)

- Develop Reports on Compliance and Control
  - Evaluate Findings
Audit Scope and Objectives of an A-133 Single Audit

- Conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS)
- Covers entire operations of the entity
- Financial statements are presented fairly
- Adequate internal control structure
- Compliance with laws and regulations
- Follow-up on prior audit findings
When is A-133 Applicable?

- When an entity expends federal awards (either direct or indirect awards) in excess of $500,000 they are subject to the provisions of OMB Circular A-133.
- What qualifies as a Federal Award?
Definition of Federal Award

- Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities.
  - It does not include procurement contracts, under grants or contracts, used to buy goods or services.
  - Analysis completed by the client to determine if a vendor relationship exists.
Examples of Federal Assistance

- Grants
- Contracts
- Cooperative Agreements
- Loans
- Loan Guarantees
- Property
- Interest Subsidies
- Insurance
- Direct Appropriations
- Endowments
- Other Non-Cash Assistance
- Indirect State or Local Government Transfers of Federal Funds
Schedule of Expenditures of Federal Awards (SEFA)

- Prepared by management
- Includes all activities from previous slide
- Reconciles to the general ledger
- Specify pass-through awards
- Include CFDA or identifying number for each grant
- Pass-through entity identifying number
- Auditor uses this document to perform risk assessments and selection of major programs
  - Completeness critical to avoid over testing or missed programs
Cluster Consideration

- Similar requirements but different CFDA numbers can be clustered based on the compliance supplement
- Treated as one program for major program determination and testing
- Awards with the same CFDA number will also be clustered together

- Most common:
  - Research and Development
  - Student Financial Aid
  - Homeland Security
  - Special Education

- Part 5 of the Compliance Supplement for information on clusters
Compliance Requirements
All Compliance Requirements?

- Do auditors look at all applicable compliance requirements?
  - No
  - Direct and material compliance requirements
- Should an auditee comply with all applicable compliance requirements?
  - Yes
  - Do not try to predict an auditor’s scope
Compliance Requirements

- Activities Allowed or Unallowed (A)
  - Specifies the activities that can or cannot be funded under a specific program
- Allowable Costs / Cost Principles (B)
  - Specifies the costs that can and cannot be funded under a specific program and how they are calculated and supported
- Cash Management (C)
  - Reimbursements are properly supported
  - Advance payments are properly managed
  - Interest earned on advance payments is inconsequential or remitted to grantor
- Davis-Bacon Act (D)
  - Contractors are paid the prevailing wages of the local department of labor
Compliance Requirements (continued)

- Eligibility (E)
  - Participants meet the program criteria to receive grant funding
- Equipment and Real Property Management (F)
  - Management, use and disposal of equipment or real property
- Matching, Level of Effort, Earmarking (G)
  - Matching, required cost share
  - Level of effort, required participation from period to period
  - Earmarking, setting aside funding for a purpose
- Period of Availability of Federal Funds (H)
  - Expenditures are within the granting period
  - Claims have been made within a reasonable period of time after the granting period
Compliance Requirements (continued)

- **Procurement and Suspension and Debarment (I)**
  - Federal, state or local procurement laws are followed
  - Vendors and sub-recipients are not suspended or debarred

- **Program Income (J)**
  - Income generated by Federal funds are used for program expenditures
  - Income generated by Federal program offset Federal claims

- **Real Property Acquisition and Relocation Assistance (K)**
  - Equal treatment by persons displaced by the Federal government
Compliance Requirements (continued)

- Reporting (L)
  - Reporting results
    - Performance
    - Financial
    - Special reporting
- Sub-recipient Monitoring (M)
  - Monitoring pass-through funding
- Special Tests (N)
  - Other
What is a Direct and Material Compliance Requirement?

- First thing is first, what compliance requirements are applicable?
  - Part 2 – Matrix of Compliance Requirements
  - Part 7 – Guidance for Auditing Programs Not Included
- Very subjective, meaning
  - Personal views / auditor judgment
  - Experience
  - Accepted risk
  - Industry expectation
- Qualitative and quantitative factors
Qualitative Factors

- Federal, state, local oversight
- Internal or other external audits
- Findings
- Obvious need for compliance
  - Allowability
  - Cash management
  - Eligibility
  - Procurement, Suspension, Debarment
  - Reporting
Quantitative Factors

- Materiality assessments
  - For example: 5% of expenditures, +/- 1 day, etc.
  - Auditor’s tolerance, not an auditee concept
Tips for the Grant Manager

- Gather and summarize grant information
  - Clean and organized records give auditors comfort
- Document your policies and procedures
  - Documentation drives quality and compliance
- Know where to find the OMB A-133 Compliance Supplement

[www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2011]
Tips for the Grant Manager (continued)

- Know what compliance requirements are applicable to your program
- The following are the most tested by auditors:
  - Allowable Activities/Costs
  - Cash Managements
  - Eligibility
  - Equipment Management
  - Procurement, Suspension, Debarment
  - Reporting
  - Subrecipient Monitoring
  - Special Tests
Approaching a Compliance Requirement

- Who is responsible for the compliance requirement?
- Analyze internal control using COSO
- Design test of internal control over compliance
  - Sample size
  - Key controls
- Design test of compliance
Internal Control Over Compliance
Analyzing Internal Control

- OMB A-133 requires us to plan our audit to obtain a “low” control risk
  - That is controls that “operate effectively”
  - Reliable controls
- How do we get to “low” control risk?
  - Document our understanding
  - Test control design and implementation
  - Test control effectiveness
Understanding

- We are required to document our understanding of your internal controls over grant programs using the COSO framework
Control Activities

You should be able to answer the following questions when asked:

- How are you certain your organization is in compliance with (insert specific compliance requirement)?

This question flushes out the control activities.
Risk Assessment

- How did you learn that (control activity) was necessary to ensure compliance?

This question flushes out the risk assessment component.
Information and Communications

- How and when do you notify people the (control activity) is required?

This question flushes out the information and communication component.
Monitoring

- What is the process used to ensure the (control activity) is performed correctly and consistently?

  This question flushes out the monitoring component.

  **Auditors cannot be part of the auditee’s internal controls!**
Control Environment

- A summary of the other control components is the control environment
  - What is management attitude about controls, or “Tone at the Top”?
  - By looking at the answer to the other questions, we can get real insight on management’s attitudes
The Good, The Bad and The Ugly

- Testing internal controls and compliance require sampling
  - *The Good* – auditors do not test every transaction
  - *The Bad* – the transactions tested have significant meaning
  - *The Ugly* – errors equal findings or more testing which translates to more time and more money
Internal Control Testing

- Test of design and implementation
  - Walkthrough of our understanding
  - Conclusion: Control has been properly designed and implemented
- Test of effectiveness
  - Select a sample and test control attributes
  - Conclusion: Control is operating effectively
- Control must be effective or you should have a finding
Compliance Testing

- If controls are effective, sample sizes are similar if not the same for compliance testing
- If controls are not effective, sample sizes need to be significantly increased to determine compliance
Tips for Grant Managers

- Document your controls using COSO
- Make sure everyone in your organization/department knows your control system
- Periodically, review the internal control system and see if it is working
- Closely monitor new employees for strict compliance with policies
Achieving Compliance
First Step to Compliance

Which Circular Do I Follow?

Although there are six grant OMB circulars, you are only covered by three of them, depending on type of entity:

States, local governments, and Indian Tribes follow:
- A-87 for cost principles, Relocated to 2CFR, Part 225
- A-102 for administrative requirements (common rule), and
- A-133 for audit requirements

Educational Institutions follow:
- A-21 for cost principles, Relocated to 2CFR, Part 220
- A-110 for administrative requirements, Relocated to 2 CFD, Part 215 and
- A-133 for audit requirements
Time Activity Reporting

- Cost principles for Educational Institutionals are found in A-21 Attachment B, section J.10
  - Salaries and wages charged to Federal awards are allowable to the extent that total compensation to the individual employee conforms to established policies of the institution, are consistently applies, and provided that the charges for work performed directly on sponsored awards have been determined in accordance with and supported by the provisions of A-21, section J.10.
  - Payroll distribution is based on an after-the-fact confirmation or determination that cost distributed represent actual costs. Confirmation should be by a responsible person with suitable means of verification that the work was performed. Confirmation by the employee is not required if other responsible persons make appropriate confirmations.
Time Activity Reporting (continued)

- In Educational Institutions (such as community colleges), the personnel activity report must:
  - Reflect after the fact actual effort (no budget estimates)
  - Account for total activity of the employee
  - Be signed by a responsible person with suitable means of verification that the work was performed
  - Reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

- In County Offices of Education
Sub-recipient Monitoring

- Document Sub-recipient vs. Vendor A-133: 210
- Sub-recipients:
  - Determine eligibility
  - Performance measured against Federal program objectives
  - Programmatic decision-making
  - Responsibility to adherence to Federal compliance requirements
  - Carryout program of organization
    vs.
- Vendors:
  - Provide goods and services in normal course of business
  - Provide similar goods/services to many different purchasers
  - Operates in competitive environment
  - Goods/services are ancillary to operation of the Federal Program
  - Not subject to compliance requirements
Sub-recipient Monitoring (continued)

- Pass-through Entity Responsibility A-133 .400
  - Identify CFDA # for each Sub-recipient
  - Advise Sub-recipient of Federal and other requirements
  - Monitor activities of Sub-recipient
  - Ensure that Sub-recipient that spend more than $500,000 have a single audit
  - Make management decisions on all findings within 6 months of issuance
  - Consider impact on own records of Sub-recipient findings
  - Require Sub-recipient to permit access to records
  - Keep Sub-recipient report submissions
Procurement

- Institutions of higher education, hospitals, and other not-for-profit organization’s shall use procurement procedures that conform to applicable Federal law and regulations and standards identified in OMB Circular A-110
- Governments follow grants management common rule
Common Rule 45 CFR 92.36 and A-110

- Follow own procurement standards
- Contract administrative system
- Written code of conduct
- Avoid unnecessary/duplicative purchases
- Encourage intergovernmental agreements
- Use excess Federal surplus property
- Use only responsible contractors
- Maintain records documentation
  - Rationale for method procured
  - Selection of contract type
  - Contractor selection
  - Basis for price (analysis)
Common Rule 45 CFR 92.36 and A-110 (continued)

- Limit time and materials contracts
- Sound business judgment
- Include protest procedures
- Competition – full and open with no:
  - Unreasonable requirements
  - Unnecessary experience or bonding
  - Non-competitive awards to consultants on retainer
  - Specifying “brand name”
  - Arbitrary actions in procurement process
Common Rule 45 CFR 92.36 and A-110 (continued)

- **Methods**
  - Small purchase (less than $100,000 GOV $25,000 NFP) (adequate price quotes)
  - Sealed bids – fixed fee
    - Adjustable
    - Open public
    - Lowest responsible bidder
    - Reasons for rejection
  - Competitive proposal
  - Non-complete proposal
    - Single source
    - Emergency
    - Authorized by funding source
Suspension & Debarment

- Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred
- Verify status of these parties by using the *Excluded Parties List System* ([http://epls.arnet.gov](http://epls.arnet.gov))
Allowable Costs

- To be allowable, a cost must:
  - Be reasonable for the performance of the award and be allocable in accordance with A-122, A-87 or A-21
  - Conform to any limitations or exclusions set forth in A-122, A-87 or A-21
  - Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the organization
  - Be accorded consistent treatment
  - Be determined in accordance with GAAP
  - Not be included as a cost of any other federally financed program (or used to meet matching requirements)
  - Be adequately documented
  - Be net of all applicable credits
Allowable Costs – Direct Cost

- Direct costs are those that can be identified specifically with a particular final cost objective
- Certain direct costs are allowable for computing charges to Federal awards and must be allocated their share of indirect costs if they represent activities that a) include salaries, b) occupy space, c) benefit from the organization’s indirect costs
## Equipment & Real Property Management

- **Equipment Management:**
  - Equipment must be used in the program for which it was acquired
  - Equipment records must be maintained and identify the assets that were acquired with Federal funds
  - Physical inventory of equipment must be taken once every two years & be reconciled to the equipment records
  - Equipment shall be adequately maintained and safeguarded

- **Real Property Management:**
  - Real property shall be used for the originally authorized purpose
  - Approval may be obtained to use that property in other federally sponsored projects or programs
  - Consent of the awarding agency is required to dispose or encumber the title to the real property
Equipment & Real Property Management (continued)

- Sale of equipment:
  - Competition to the extent practicable

- Sale of real property:
  - Competition to the extent practicable
  - Non-Federal entities are generally required to remit to the awarding agency the Federal portion of net sales proceeds
## Auditor’s Classification of Finding

- **Internal Control Findings**
  - Deficiency
  - Significant Deficiency
  - Material Weakness

- **Compliance Findings**
  - Not Material Finding (known / likely QC over $10,000)
  - Material Finding
    - Scope Restriction
    - Qualified Opinion
    - Adverse Opinion
    - Disclaimer
  - Known Fraud
  - Material Misrepresentation in Client’s Status of Prior Year Findings
Elements of a Finding

(Auditor develops with assistance from client)

- Identify Federal Program and Specific Federal Award
  - CFDA number and title
  - Federal award number and year
  - Federal agency
  - Name of pass-through entity
  - Criteria – statutory / regulatory
  - Condition found
  - Questioned cost – how computed
  - Information to provide prospective
  - Cause / effect
  - Recommendation
Reporting – Auditee Responsibilities

- Schedule of Expenditures of Federal Awards
- Data Collection Form
- Status of Prior Findings
- Corrective Action Plan
- Filing Reporting Package with the Clearinghouse
Matching, Level of Effort, Earmarking

- **Matching** or cost sharing includes requirements to provide contributions of a specified amount or percentage to match Federal awards.
- Specific matching requirements are unique to each Federal program:
  - Found in laws, regulations, and provisions of contract or grant agreements.
- Basic criteria for acceptable matching costs:
  - Are verifiable from the non-Federal entity’s records.
  - Are not included as contributions for any other federally assisted program.
  - Are necessary and reasonable.
  - Are allowed under the applicable cost principles.
  - Are not paid by the Federal Government under another award.
  - Are provided for in the approved budget.
  - Conform to other applicable provisions of the A-102 common rule, OMB Circular A-110, and the laws, regulations, and provisions of contract or grant agreements applicable to the program.
Matching, Level of Effort, Earmarking (continued)

- **Level of effort** includes requirements for:
  - a specified level of service to be provided from period to period,
  - a specified level of expenditures from non-Federal or Federal sources for specified activities to be maintained from period to period, and
  - Federal funds to supplement and not supplant non-Federal funding of services

- **Earmarking** includes requirements that specify the minimum and/or maximum amount or percentage of the program’s funding that must/may be used for specified activities, including funds provided to sub-recipients
Status of Prior Findings

- For prior findings meeting A-133 (not GAS) reporting criteria
- Identify whether finding is:
  - Corrected
  - Not corrected
  - No longer valid (if after 2 years there is no federal or pass-through follow up or management decision)
  - Auditor must determine reasonableness of status and report material misrepresentation as current findings
Corrective Action Plan A-133.315

(Client Document)

- Contact person responsible for corrective action
- Planned action
- Anticipated completion date
- Explanation if:
  - Disagree with the finding
  - Believes corrective action is not required
Cash Management

- Reimbursement of funds:
  - Program costs must be paid using entity funds prior to requesting reimbursement

- Advancement of funds:
  - Procedures need to be in place to minimize time between receipt of funds from U.S. Treasury and disbursement

- Interest:
  - Interest earned on advances is required to be submitted promptly (but at least quarterly); $100 or $250 may be kept for administrative expenses depending on grant
    - $250 for SFA Cluster
    - $100 on must other grants