



THE RESEARCH FOUNDATION
The State University of New York

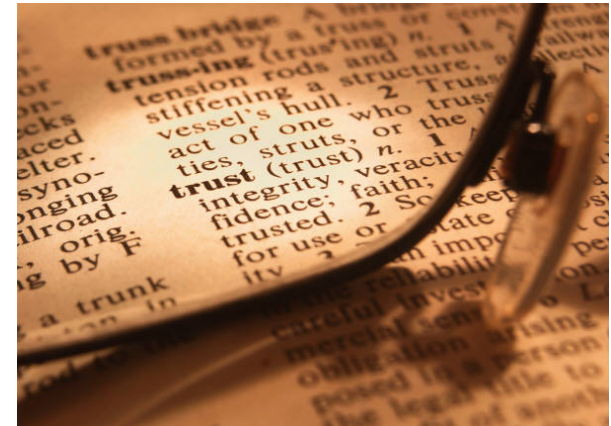
Why Should I Care About Financial Compliance?

Operation Managers Meeting
October 14, 2003

Presented By: Frank Zuraf, Vice President
Office of Internal Audit & Management
Advisory Services

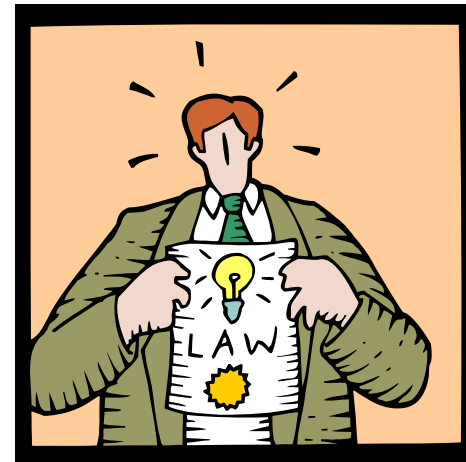
Why Should I Care About Financial Compliance?

- ❑ At the highest level:
 - ❑ Maintains relationship of trust between sponsors and institution
 - ❑ Provides necessary stewardship to properly safeguard investments in research



Why Should I Care About Financial Compliance? *(continued)*

- ❑ **Withholding of future awards**
- ❑ **Audit findings/cost disallowances**
- ❑ **Criminal/civil/administrative penalties**
- ❑ **Loss of flexibility (Exceptional status)**



Why Should I Care About Financial Compliance? *(continued)*

- ❑ Reputation risk with sponsors, donors, faculty and students
- ❑ Public embarrassment
- ❑ Loss of public confidence
- ❑ It's the right thing to do



Rules for Financial Compliance Mostly Found in Four Documents



- ❑ **OMB Circular A-21, Cost Principles for Educational Institutions**
- ❑ **OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education**
- ❑ **OMB Circular A-133, Audits of States, Local Governments and Non-profit Organizations**
- ❑ **Sponsored Agreements**



Circular A-21 is Key Document for Determining Compliance

- ❑ **Contains General Standards for Allowability:**
 - Reasonable
 - Allocable
 - Treated Consistently
- ❑ **Specific Rules on Selected Types of Costs**
- ❑ **Standards for Computing and Allocating Indirect Costs**
- ❑ **Describes 50 Types of Costs in Section J. with Policies on Allowability**



Circular A-110 Contains Rules and Guidelines in the following areas:

- ❑ **Property Standards**
- ❑ **Procurement Standards**
- ❑ **Program Income**
- ❑ **Cost Sharing**
- ❑ **Retention and Access
Requirements for Records**
- ❑ **Closeout Procedures**



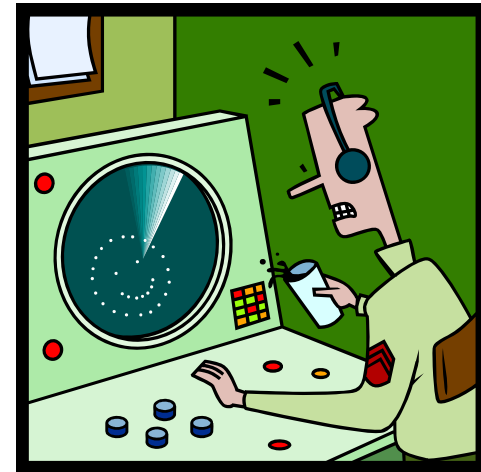
Circular A-133

- ❑ **Compliance Supplement contains audit steps performed related to grant and contract financial reporting and program management for entities receiving more than \$300,000 (\$500,000 as of 1/1/04)**
- ❑ **Includes steps for review of Internal Controls, Allowability of Charges, Cites Standards for Direct and Indirect Charges, and guidance in such areas as DS-2's, Construction Costs, etc.**



Compliance Areas Currently on Federal “Radar Screen”

- ❑ **Effort Reporting**
- ❑ **Direct Charging of Costs Normally Charged as Indirect (F.6.b.)**
- ❑ **Program Income**
- ❑ **Cost Sharing**
- ❑ **Sub-recipient Monitoring Requirements in Circular A-133**
- ❑ **Tuition Remission for Graduate Research Assistants**



Effort Reporting

- ❑ **Current Interest in this area result of Northwestern University False Claims Case**
- ❑ **A-21 recognizes the difficulty in achieving precision in the salary distribution area**

When distributing salaries:

- ❑ **in an academic setting: teaching, research, service and administration are often inextricably intermingled**
- ❑ **a precise assessment of factors that determine costs is not always possible, and**
- ❑ **reliance is placed on estimates in which a degree of tolerance is appropriate**



For Effort Reporting the RF Uses After-the-fact Activity Records

- “..reflect the distribution of activity expended by the employees covered..”
- “..reflect an after-the-fact reporting of the percentage distribution of activity..”
- “..reasonably reflect the activities for which employees are compensated..”
- “..reflect activity applicable to each sponsored agreement & F&A category..”
- “..professorial & professional staff, the reports will be prepared each academic term, but not less frequently than every six months..”



Northwestern Case Involved:



- Including salaries from clinical practice plan in total institutional base salary but excluding them from computation of % of effort
- Failed to maintain records to reconcile budgeted salary and effort commitment with actual effort
- Applied for K grants which require 75% effort, knowing principals could not devote this effort to grant
- Drew down funds for salary costs using unreliable documents that did not accurately reflect effort devoted to research



Direct Charging of Costs Normally Claimed as Indirect

- Section F.6.b. of Circular A-21
- Purpose: To ensure consistency in charging of costs and to avoid duplication of charges
- Indirect Costs that might be charged directly
 - Administrative and clerical salaries
 - Supplies
 - Telephone costs
 - Postage



Direct Charging of Costs Normally Claimed as Indirect

- Allows for Direct Charging under “unlike circumstances”
Examples of major projects where permissible:
 - Large complex programs such as General Clinical Research Centers, Primate Centers, Engineering Research Centers and the like
 - Projects requiring extensive data collection
 - Projects with large travel and meeting arrangements
 - Projects whose focus is preparation of manuals and large reports and
 - Projects involving research vessels or other remote sites



Program Income



- OMB Circular A-110, Subpart C.24 indicates, on awards funded in whole or in part with federal funds:
 - Program Income to be retained by the recipient and used as follows:
 1. Added to project funds to further goals of program
 2. To finance the non-federal share of the project, or
 3. Deducted from project or program allowable costs to determine the net allowable costs to federal program



Program Income *(continued)*



- If terms and agreements of the award are silent as to how program income is to be used, then:
 - if award is research-related, the program income should be added to the project to further goals
 - if award is not research-related, program income should be deducted from the total project cost



Program Income *(continued)*



- ❑ Program income earned after the project period belongs to recipient
- ❑ Awarding agency may authorize costs incident to production of income to be deducted from income (costs not charged to project)
- ❑ Proceeds from sale of property handled in accordance with property standards; and
- ❑ Program income earned from license fees or royalties from patents belong to recipients



Cost Sharing and the Computation of Indirect Costs

- Cost Sharing – A cost that is allocable to a particular project but not charged to that project (usually involves salaries)

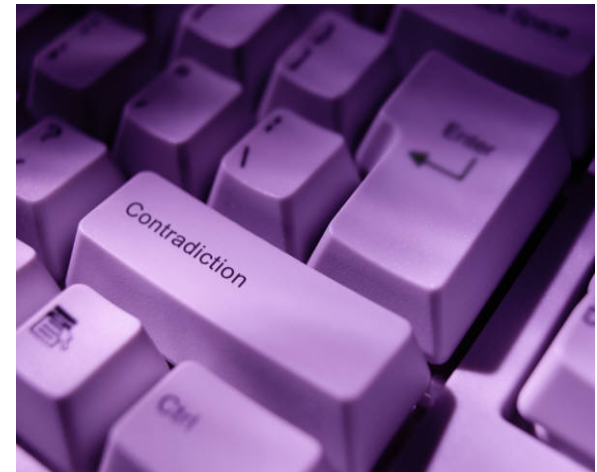
There are three types of Cost Sharing:

1. Mandatory Cost Sharing
 2. Voluntary Committed Cost Sharing
 3. Voluntary Uncommitted Cost Sharing
- Cost Sharing – An important element in the computation of Indirect Costs



Cost Sharing and the Computation of Indirect Costs

- Clarification by OMB:
Voluntary Uncommitted Cost Sharing should be treated differently from committed effort and should not be included in the organized research base when computing the indirect cost rate



Tuition Remission Costs for Graduate Research Assistants

- Guidelines for charging these costs to sponsored agreements are contained in Section J.41 of Circular A-21 which states in part:

Tuition remission paid in lieu of salaries to students performing necessary work are allowable provided:

1. There is a bona-fide employer-employee relationship between the student and the institution.
2. Tuition remission is reasonable compensation for work performed, and
3. It is the institution's practice to similarly compensate students in non-sponsored as well as sponsored activities.



Tuition Remission Costs for Graduate Research Assistants *(continued)*

- OMB Clarification – OMB did not intend to tie allowability of tuition remission costs to how they are treated for tax purposes. OMB wants to recognize dual role of graduate students. The clarification provides that tuition costs are allowable provided that:
 1. Student is conducting necessary activities
 2. Tuition support is provided in accordance with institution policy and consistently provided to students in return for similar activities conducted in non-sponsored as well as sponsored activities, and
 3. The student is enrolled in an advanced degree program and the activities related to the research grant are related to the degree program



Tuition Remission for Graduate Students

- Several cases were investigated by the IRS and the Justice Department related to the taxability and allowability (under A-21 rules) of tuition remission costs
- False claims case presented by a Qui Tam Relator at the University of California



Sub-recipient Monitoring

- Circular A-133 provides the following general guidance:
 - Sub-recipient is a non-federal entity that expends funds received from a pass-through entity
 - For-profit entities are not covered by A-133
Also, there is a \$300,000 threshold for non-profits (\$500,000 as of 1/1/04)
 - Sub-recipient, if covered by A-133, required to submit written notice that an audit was conducted



Pass-through Entity Responsibilities re Sub-recipients

- Identify Federal awards by providing subs with CFDA # and Title, Award Year, Federal agency, etc.
- Advise sub-recipients of requirements imposed by Federal laws
- Monitor activity of sub-recipients
- Ensure sub-recipients with \$300,000 or more have audits
- Resolve any audit findings within six months of receipt of audit report
- Adjust pass-through records, if necessary, as result of audit
- Require sub-recipient to permit access to records



With Respect to Monitoring of Sub-Recipients

- Circular A-133 suggests the following:
 - Review of financial and technical reports (including A-133 report)
 - Regular contacts with sub-recipient with appropriate inquiries
 - Site visits by reps of pass-through entities



Current Controversy re Sub-recipient Monitoring

Do Pass-Through Entities Do Enough?



- Circular A-133 lists following factors that affect the extent of monitoring required:
 - Program complexity
 - Percentage of money passed through to sub-recipient
 - Amount of award
 - Past history of sub-recipient



RF Policy re Sub-recipient Monitoring

- Risk-based approach
- Level of monitoring determined on a case-by-case basis taking into consideration:
 - History of sub-recipient
 - Amount and complexity of award
 - The nature of the deliverable
- We believe our policy in this area is sound and compliant with requirements of A-133



Questions/Comments

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