

# GPA-NCA Conference

## Breakout Session D From Compliance to Performance

# From Compliance to Performance

## Learning Objectives

- Explore the issues of transparency and accountability.
- Develop an understanding of the federal interest in risk and performance.
- Recognize key provisions for program performance .
- Recognize key provisions for fiscal performance.
- Raise awareness of steps to take to address performance.

# From Compliance to Performance

## Learning Objective 1 Explore Issues of Transparency and Accountability

# LO1: Explore Issues

## Uniform Guidance

- Merged eight previously separate OMB circulars and incorporates numerous other changes.
- One significant change that impacts oversight and accountability is a focus on from compliance to performance.

# LO1: Explore Issues

## Uniform Guidance Priorities

- Reduce administrative burden.
- Reduce waste, fraud and abuse.

# LO1: Explore Issues

## Why Reduce Waste, Fraud and Abuse?

- \$600 billion grant awards each year.
- \$100 billion improper payments each year.
- \$994 million left in payment management systems for expired grants.
- \$kdkdk paid to individuals who were dead.
- \$asl paid to jailed or slk felons

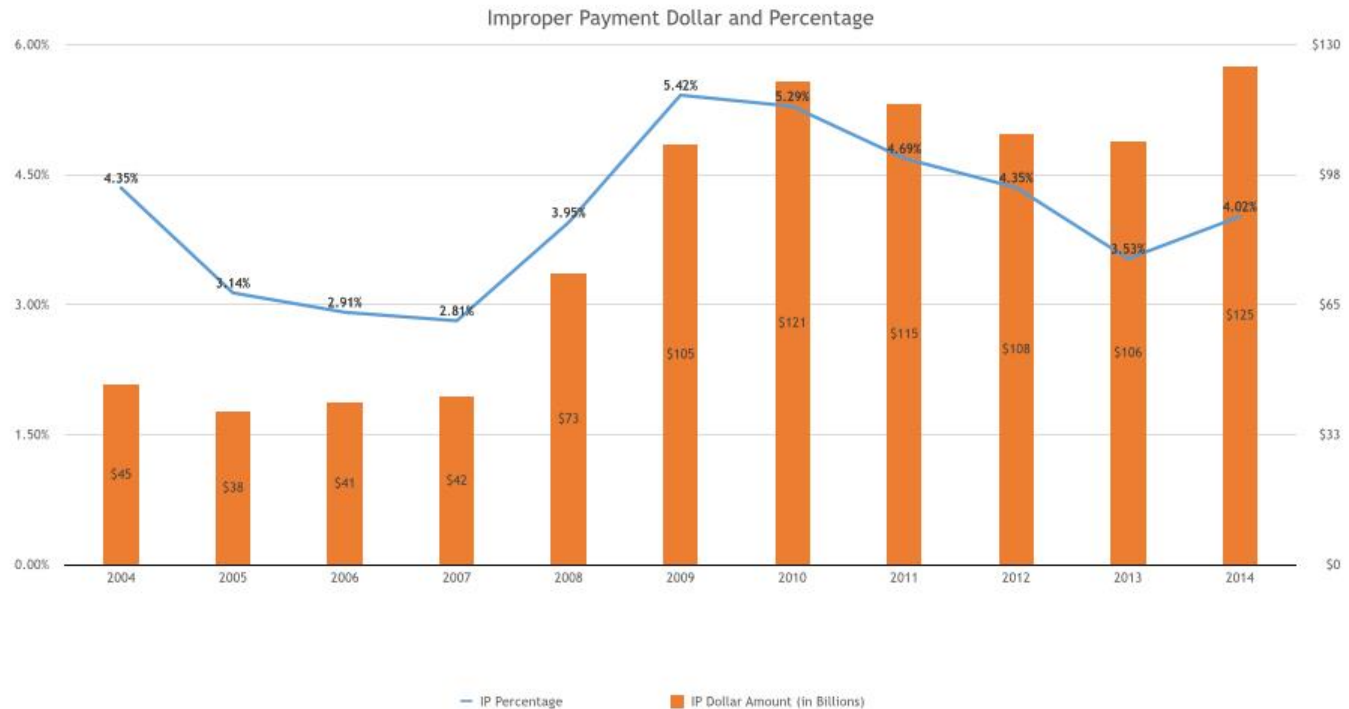
# LO1: Explore Issues

## More Funding Trends

- OMB goal in 2012 to recover \$50 billion.
- Federal agencies recovered \$47 billion.
- Annual targets for each federal agency.
- [www.paymentaccuracy.gov](http://www.paymentaccuracy.gov)

# LO1: Explore Issues

## Payment Accuracy





# LO1: Explore Issues

## Payment Accuracy

Agency	Payment Recapture Audits		Overpayments Recaptured Outside of Payment Recaptures	
	Amount Identified	Amount Recovered	Amount Identified	Amount Recovered
Department of Agriculture	\$0.6M	\$0.7M	\$300.5M	\$234.5M
Department of Commerce	\$0.0M	\$0.0M	\$9.4M	\$7.2M
Department of Defense- -Military	\$6.5M	\$2.0M	\$513.2M	\$462.6M
Department of Education	\$74.4M	\$33.8M	\$0.0M	\$0.0M

# LO1: Explore Issues

## Nine Objectives of the Uniform Guidance

### Objective #2

Focus on performance over compliance for accountability.

# From Compliance To Performance

## Learning Objective 2

### Federal Interest in Risk and Performance

# Federal Interest in Risk

## 1999 FFAMIA

- Federal Financial Assistance Management Improvement Act
- PL 106-107
- Created a digital platform: grants.gov
- “To improve the effectiveness and performance of federal financial assistance programs...”

# Federal Interest in Risk

## 2006 FFATA

- Federal Funding Accountability and Transparency Act
- PL 109-282
- Created a digital platform: USAspending.gov
- Recipients and subrecipients report progress
- All nonfederal entities register in SAM.gov
- Issue: No interoperability between USAspending.gov and federal financial systems.

# Federal Interest in Risk

## 2009 ARRA

- American Recovery and Reinvestment Act
- PL 111-5
- Created a digital platform: Recovery.gov
- Created Recovery Operations Center (ROC)
  - Analytical support, fraud-risk scorecard
  - Mathematical models for detection.
  - Signaled investigations by OIGs and state attorneys

# Federal Interest in Risk

## 2009 Duncan Hunter

- Duncan Hunter National Defense Reauthorization Act
- PL 110-417
- Created a digital platform: FAPIIS.gov
- Database about federal contractors.
  - Tracks business ethics and risk data.
  - Tracks convictions, criminal, civil proceedings
  - Awards can be denied based on risk and integrity

# Federal Interest in Risk

## 2010 IPERA

- Improper Payments Elimination and Recovery Act
- PL 111-204
- Created a digital platform: [paymentaccuracy.gov](http://paymentaccuracy.gov)
- Reduce improper payments via recovery audits.
- Federal agencies held accountable for funds.
- \$50B recovery target, recovered \$47B



# Federal Interest in Risk

## 2012 IPERIA

- Improper Payments Elimination and Recovery Improvement Act
- PL 112-248
- Continued digital platform: [paymentaccuracy.gov](http://paymentaccuracy.gov)
- OMB to establish annual targets for federal agencies.
- Federal agencies must report high risk programs.
- Federal agencies disclose to OIGs actions taken or planned to recover improper payments.

# Federal Interest in Risk

## 2013/2014 Uniform Guidance

- Reduce administrative burden
- Reduce waste, fraud and abuse
- High risk is associated with a greater likelihood of waste, fraud and abuse.

# Federal Interest in Risk

## 2014 DATA Act

- Digital Accountability and Transparency Act
- PL 113-101
- Improve digital platform: USAspending.gov
- All federal funding (not just grants).
- Improve data information collections.
- Detect, prevent and recover improper payments.
- Data analytics center in Treasury.

# Federal Interest in Risk

## 2015 Duncan Hunter Amended

- Duncan Hunter National Defense Authorization Act
- PL 110-417
- Expand digital platform: FAPIIS.gov
- Merge with SAM.gov.
- Expand requirements from federal contract community to federal grants community.

# Federal Interest in Risk

## 2016 GONE Act

- Grants Oversight New Efficiency Act
- PL 114-117
- Improve grant closeout process.
- Federal agencies report all grants to OIGs.
- Federal agencies report 30 oldest grants to OIGs with action plans for closeout.

# Federal Interest in Risk

## Digital Systems and Websites

- HHS: [grants.gov](http://grants.gov)
- HHS: CMS [medicare/medicaid](http://medicare/medicaid)
- GSA: [FBO.gov](http://FBO.gov) (federal contracts)
- GSA: [SAM.gov](http://SAM.gov)
- GSA to Treasury: [USAspending.gov](http://USAspending.gov)
- HUD: Credit Alert Verification System
- Census: [Harvester.census.gov](http://Harvester.census.gov) (FAC/audits)

# Federal Interest in Risk

## Digital Systems and Websites

- SSA: Death master file
- NIH: eRA Commons
- NIH: iEdison
- NIH: RePORT
- NASA: NSPIRES
- NSF: Fastlane, [research.gov](http://research.gov)

# From Compliance to Performance

## Learning Objective 3

### Key Provisions about Program Performance



# LO3: Program Performance

## But First - Structure of the Uniform Guidance

- Uniform Guidance is codified under 2 CFR Part 200 or 2 CFR 200.
- Uniform Guidance contains six subparts and 12 appendices.
- Citations for all the subparts start with 200...

# LO3: Program Performance

## Structure

- Subpart A: Definitions ( § 200.xx's)
- Subpart B: General Provisions ( § 200.100's)
- Subpart C: Pre-Award ( § 200.200's)
- Subpart D: Post-Award ( § 200.300's)
- Subpart E: Cost Principles ( § 200.400's)
- Subpart F: Audit ( § 200.500's)

# LO3: Program Performance

## Structure

- Appendix I: Pre-Award
- Appendix II: National Policy
- Appendix III-VII: Indirect Costs, Cost Allocation Plans
- Appendix VIII: Large nonprofits
- Appendix IX: Hospital Cost Principles (45 CFR 75)
- Appendix X: SF-SAC
- Appendix XI: Compliance Supplement
- Appendix XII: Integrity and Performance

# LO3: Program Performance

## Pre-Award Citations

- Federal agency may approve new strategies for innovative program designs that improve cost-effectiveness and generate positive outcomes ( § 200.102)
- New fixed amount award category focuses on performance. There is no federal review of actual costs ( § 200.102)

# LO3: Program Performance

## Pre-Award Citations

- Six standard data elements to be provided in notices of funding opportunities ( § 200.203, Appendix I).
- Federal agencies must design and execute a merit review for proposals ( § 200.204).

# LO3: Program Performance

## Pre-Award Citations

- Federal agency must note performance goals and outcomes intended to be achieved in award agreements ( § 200.210).
- Performance goals must be associated with a timeline for accomplishment ( § 200.210).

# LO3: Program Performance

## Post-Award Citations

- Federal agency must require the recipient to relate financial data to performance accomplishments ( § 200.301).
- Recipient performance should be measured in a way to improve program outcomes ( § 200.301).

# LO3: Program Performance

## Post-Award Citations

- Performance reporting should reflect recipient progress and identify promising practices to build evidence upon which future federal agency awarding decisions are made ( § 200.301).



# LO3: Program Performance

## Post-Award Citations

- New fixed-amount awards up to \$150,000 will reduce compliance requirements (no government review of actuals for reimbursement) in favor of meeting performance outcomes ( § 200.301).
- Recipients must have a system of internal control, protect personally identifiable information ( § 200.303).

# LO3: Program Performance

## Post-Award Citations

- Nonfederal entities must monitor activities under federal awards to assure compliance and performance expectations are being achieved. Monitoring by the nonfederal entity must cover each program, function or activity ( § 200.328).

# LO3: Program Performance

## Post-Award Citations

- Nonfederal entities must submit performance reports using OMB-approved governmentwide standard information collections ( § 200.328).
  - Comparison of actual accomplishments to objectives.
  - Reasons why goals were not met.
  - Additional information about any cost over-runs or high unit costs.

# LO3: Program Performance

## Post-Award Citations

- Recipients encouraged to use open and machine-readable formats for data ( § 200.335).
- Nonfederal entities should seek prior approval from the federal awarding agency under 22 circumstances ( § 200.407).

# LO3: Program Performance

## Post-Award Citations

- Time and effort reporting must now account for 100 percent of time for grant and nongrant activities ( § 200.430).

# LO3: Program Performance

## Closeout Citations

- Nonfederal entities must submit final reports within 90 days after the end date( § 200.343).
- Federal awarding agencies or pass-through agencies should complete all closeout actions no later than one year after receipt of all required final reports ( § 200.343).

# From Compliance to Performance

## Learning Objective 4

### Key Provisions about Fiscal Performance

# LO4: Fiscal Performance

## Pre-Award Citations

- Federal agencies to review risks of an applicant prior to making an award for competitive and formula grants ( § 200.205).
- Federal agencies must comply with guidelines on suspension and debarment ( § 200.205).
- Federal agencies must comply with guidelines on integrity and business ethics ( § 200.205).



# LO4: Fiscal Performance

## Pre-Award Citations

- Federal agencies must have a framework for evaluating the risks posed by applicants before an award ( § 200.205).
  - Financial stability.
  - Quality of management system.
  - History of performance.
  - Audit reports.

# LO4: Fiscal Performance

## Pre-Award Citations

- If awarding to a recipient with elevated risk, federal agencies must impose specific conditions to mitigate deficiencies ( § 200.207).
- Once deficiency is corrected, federal agencies must amend award agreement to remove the specific condition(s) and lower the risk assessment.

# LO4: Fiscal Performance

## Pre-Award Citations

- Federal agencies must design and execute an integrity review for applicants ( § 200.212, Appendix XII), post in FAPIIS, retain five years.
- An applicant that is denied an award based on risk, integrity or both, is determined as “not qualified” for federal awards.

# LO4: Fiscal Performance

## Post-Award Citations

- Pass-through entities to consider risks and integrity associated with subawards ( § 200.331).
- Pass-through entities are responsible for establishing requirements for for-profit subrecipients including pre-award audits, monitoring and post-award audits ( § 200.501).

# LO4: Fiscal Performance

## Post-Award Citations

- Procurement transactions must reflect full and open competition to ensure contractor performance and eliminate unfair competitive advantage ( § 200.318).

# LO4: Fiscal Performance

## Post-Award Citations

- To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements ( § 200.319).

# LO4: Fiscal Performance

## Post-Award Citations

- Internal control, previously in audit circular, is now moved forward to post-award to address internal control earlier in the process ( § 200.303).
- Nonfederal entities must submit mandatory disclosures that include civil, criminal, and administrative proceedings (Appendix XII).

# LO4: Fiscal Performance

## Post-Award Audit Citations

- Federal agencies required to create a new position or designate an existing position as a single audit accountable official to provide oversight of audits and implement audit risk metrics with the goal to reduce improper payments and improve federal program outcomes ( § 200.513).



# From Compliance to Performance

## Learning Objective 5 Steps To Take

# LO5: Steps To Take

## Protect Allowable Costs

- Review the 55 items of cost ( § § 200.420-.475).
- Some are new
  - Social media marketing
  - Family-friendly travel policies
- Some are allowable.
- Some are unallowable.
- Update local chart of accounts, as needed.

# LO5: Steps To Take

## New Administrative Requirements

- Procurement micro-purchase.
- Conflict of interest.
- Indirect costs.
- Time and effort.
- Program income.
- Travel.
- Risk assessments.

# LO5: Steps To Take

## Update Local Policies and Procedures

- Add new costs.
- Add new policies and procedures.
- Update prior policies and procedures.
- Remove old citations, references.

*Federal agencies updated their agency regulations.  
Nonfederal entities must also update policies and  
procedures.*

# LO5: Steps To Take

## Update Local Policies and Procedures

- Written policies and procedures strengthen internal controls ( § 200.303).
- Written policies and procedures define how to apply the requirements of the uniform guidance and serve as a defense in an audit finding.

# LO5: Steps To Take

## Disclosures

- Review mandatory disclosures ( § 200.113).
- Review conflict of interest ( § 200.112).
- Disclose to federal agencies any relevant violations, as appropriate.
- Include corrective action plan, as appropriate.

# LO5: Steps To Take

## Address Risk Assessments

- For federal agencies:
  - Single audit accountable official position.
  - Risk assessment framework/matrix.
  - Data analytics.
  - Reduction of high risk grantees.
  - Remedies to reduce waste, fraud and abuse.

# LO5: Steps To Take

## Address Risk Assessments

- For nonfederal entities:
  - Describe ability to address risk in proposals (pre-award).
  - Address risk in reporting (post-award).
  - Correct audit findings and/or create corrective action plan with a timeline for completion.
  - Work to lower risk.



# LO5: Steps To Take

## Address Integrity and Business Ethics

- For nonfederal entities:
  - State commitment to high standards in proposals.
  - Describe prior history with federal awards.
  - Understand risk factors throughout the organization, beyond the specific grant project.

# LO5: Steps To Take

## Summary

- Transition from compliance to performance requires benchmarks and measurement:
  - Address level of risk.
  - Monitor, address data in reports and audits.
  - Work to reduce waste, fraud and abuse.
  - Reduce high risk awardees/subawardees.

# LO5: Steps To Take

## Summary

- Uniform Guidance defines the what but not how.
- Uniform Guidance includes more flexibility.
- Federal agencies and nonfederal entities must protect process with written policies and procedures.
- Federal agencies and nonfederal entities must provide reasonable assurance (internal controls).

*Demonstrate not only best effort, but also performance.*

# From Compliance to Performance

## Additional Q&A

# From Compliance to Performance

## Contact Information



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